125-447

125-447

TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1887.

No. 162.

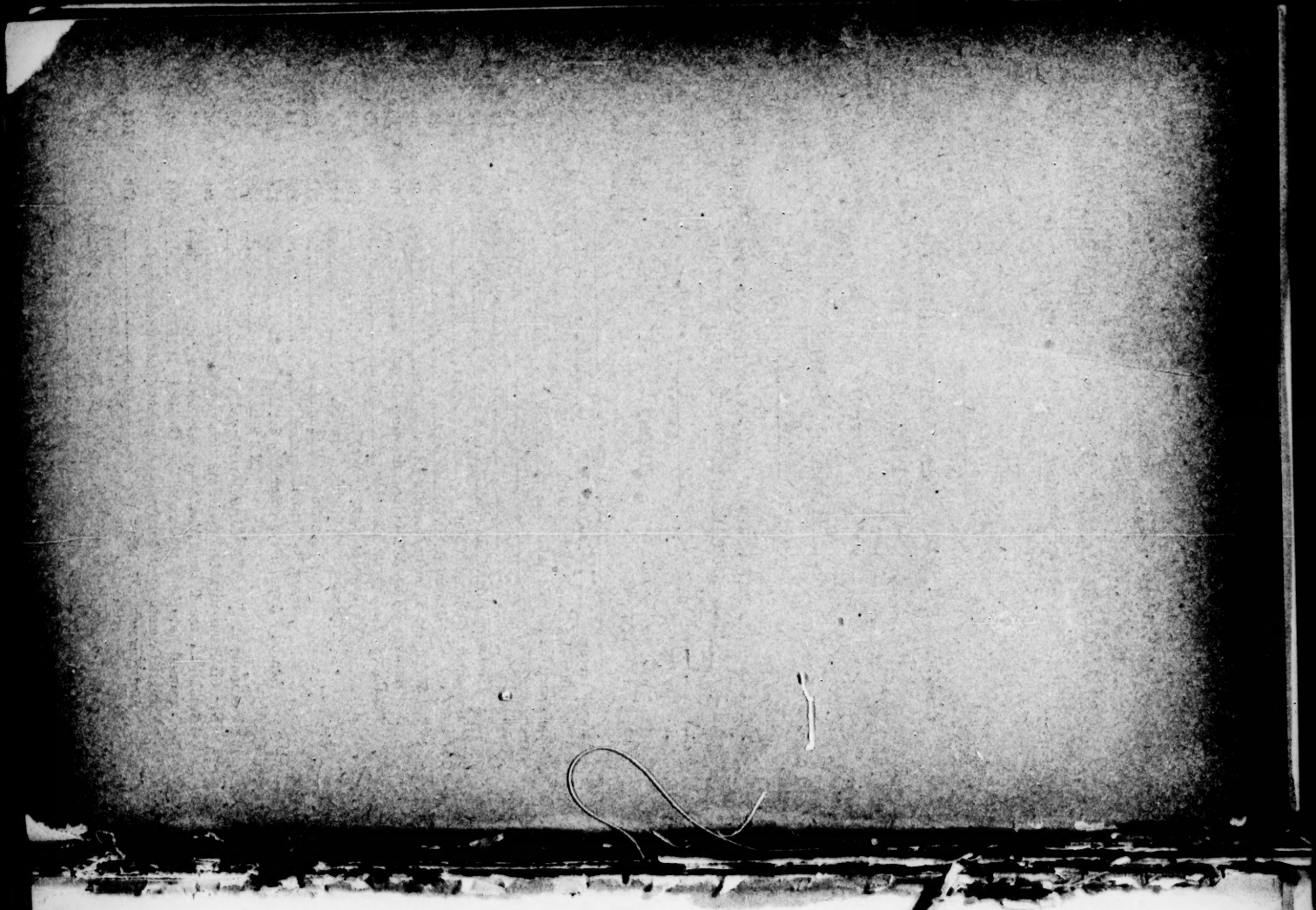
THE YALE LOCK MANUFACTURING COMPANY, APPELLANT,

vs.

THOMAS L. JAMES.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW YORK.

FILED OCTOBER 27, 1884.



SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1887.

No. 162.

THE YALE LOCK MANUFACTURING COMPANY, APPELLANT,

vs.

THOMAS L. JAMES.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW YORK.

INDEX.

	Original.	Print.
Subpœna	1	1
Marshal's return	1½	1
Bill of complaint	2	1
Appearance for defendants	14	9
Answer	15	9
Replication	24	15
Evidence for complainant	25	15
Testimony of Schuyler Merritt	26	16
Hiram A. Tyler	38	23
Exhibits—Tyler handwriting 1, 2, 3, & 4	65	40
Exhibits Yale--Adirondacks drawings, 1 & 2	67	40
Testimony of Henry B. Renwick	69	40
Hiram A. Tyler (cross)	87	52
Henry B. Renwick (cross)	102	61
Thos. F. Keating	113	67
Henry R. Towne	125	74
Exhibit—Bramble's circular No. 1	130	74
No. 2	132	79
Testimony of Henry R. Towne (continued)	134	80
Exhibit James Stipulation—Stipulation as to facts	160	96
Exhibit Reissue Letters Patent—Reissue Letters Patent No. 8783 granted Yale Lock Manufacturing Co., July 1, 1879	164	97
Exhibit Disclaimer—Disclaimer of Yale Lock Manufacturing Co., filed November 29, 1880	173	101
Exhibit Scovill Opinion—Opinion of Judge Shipman in case of Yale Lock Manufacturing Co. *vs.* Scovill Manufacturing Co.	176	103

JUDD & DETWEILER, PRINTERS, WASHINGTON, AUGUST 30, 1887.

1 [L. S.] The President of the United States of America to Thomas L. James, Greeting:

You are hereby commanded that you personally appear before the judges of the circuit court of the United States of America for the southern district of New York, in the second circuit, in equity, on the first Monday of April, A. D. 1881, wherever the said court shall then be, to answer a bill of complaint exhibited against you in the said court by The Yale Lock Manufacturing Company and do further and receive what the said court shall have considered in that behalf; and this you are not to omit under the penalty on you of two hundred and fifty dollars.

Witness Honorable Morrison R. Waite, Chief Justice of the Supreme Court of the United States, at the city of New York, on the 7th day of February, in the year one thousand eight hundred and eighty-one, and of the Independence of the United States of America the one hundred and fifth.

(S'g'd) JOSEPH M. DEUEL, *Clerk.*

BETTS, ATTERBURY & BETTS,
Compl't's Sol'rs.

The defendant is required to enter appearance in the above cause in the clerk's office of this court on or before the first Monday of April, 1881, or the bill will be taken *pro confesso* against him.

(S'g'd) J. M. D., *Clerk.*

1½ (Endorsed:) U. S. circuit court. Filed Mar. 5, 1881. Joseph M. Deuel, clerk.

I hereby certify that on the 4th day of March, 1881, at the city of New York, in my district, I personally served the within subpœnas upon the within-named Thomas L. James by exhibiting to him the within original and at the same time leaving with him a copy thereof.

Dated March 5th, 1881.

(S'g'd) LOUIS F. PAYN,
U. S. Marshal, S. D. N. Y.

2 *Bill in Equity.*

Circuit Court of the United States for the Southern District of New York, in the Second Circuit.

THE YALE LOCK MANUFACTURING COMPANY
vs.
THOMAS L. JAMES.

To the honorable the judges of the circuit court of the United States for the southern district of New York, in the second circuit:

The Yale Lock Manufacturing Company, a corporation duly created and organized and doing business under the laws of the State of Connecticut, having its principal office for the transaction of business in the town of Stamford, county of Fairfield, State of Connecti-

cut, a citizen of the United States, brings this its bill against Thomas L. James, of the city of New York, county of New York, State of New York.

And thereupon your orator complains and says that heretofore and on or about the 19th day of September, 1871, one Linus
3 Yale, Jr., of Shelburne Falls, Massachusetts, being then a citizen of the United States, was the true, original, and first inventor or discoverer of a certain new and useful invention, to wit, an improvement in post-office boxes, and that the said invention was not known or used by others before his invention or discovery thereof, and was not at the time of the application of letters patent therefor in public use or on sale with the consent or allowance of the said Linus Yale, Jr., as the inventor and discoverer thereof contrary to the provisions of the statutes of the United States in such case made and provided.

That prior to said 19th day of September, 1871, and prior to his death the said Linus Yale, Jr., made application in writing to the Commissioner of Patents of the United States for the granting of letters patent of said invention, and paid into the Treasury of the United States the fees required by law, and then and there also duly complied in all other respects with all the necessary conditions and requirements of the statutes of the United States in such case made and provided prior to the granting of the letters patent hereinafter mentioned.

That on due proceedings had in the court having jurisdiction of the estate of Linus Yale, Jr., and of the administration thereof one Silas N. Brooks was duly appointed administrator of the estate of said Yale and duly qualified as such administrator.

That on the 19th day of September, 1871, letters patent of the United States bearing date on that day were issued to the said Silas N. Brooks, of Chicago, Illinois, administrator of the estate of the said Linus Yale, Jr., then deceased, according to law, whereby there was granted to him, his successors or assigns, for the term of seventeen years from the 19th day of September, 1871, the full and exclusive right and liberty of making, constructing, using, and vending to others to be used, the invention or discovery aforesaid, a
4 description whereof was given in the words of said Silas N. Brooks, administrator, in the schedule annexed to the said letters patent, and was made part of the same.

That the said letters patent were issued in the name of the United States of America, and were signed by the acting Secretary of the Interior, and were countersigned and sealed with the seal of the Patent Office by the Commissioner of Patents, and were numbered 119,212, and were issued and delivered to the said Silas N. Brooks as administrator as aforesaid.

That thereupon, after the issuing of the said letters patent as aforesaid, the said Silas N. Brooks, administrator as aforesaid, put the said invention into use through the instrumentality of your orator.

And your orator prays that said letters patent and the schedule annexed thereto as aforesaid may be deemed and taken as part of its

bill, and to the originals of said letters patent and schedule or a duly authenticated copy thereof now in your orator's possession and ready to be produced it craves leave to refer.

And your orator further shows to your honors that heretofore and on or about the ninth day of July, 1872, said Silas N. Brooks, administrator, finding that said letters patent No. 119,212 were inoperative by reason of a defective or insufficient specification, and the said error having arisen by inadvertency, accident, or mistake and without any fraudulent or deceptive intention on the part of said Brooks, the said Brooks, administrator, surrendered said letters patent to the Commissioner of Patents according to the statutes of the United States in such case made and provided; and having amended the specification of claim in accordance with the decision of said Commissioner in the premises, and having paid the fees prescribed by and in all other things having complied with the Statutes of the United States in such case made and provided,
5 new letters patent of the United States for the same invention were, on the 9th day of July, 1872, issued and delivered to the said Brooks, administrator, according to law, whereby there was granted to him and his successors or assigns for the then unexpired term of seventeen years from the 19th day of September, 1871, the full and exclusive right and liberty of making, constructing, using, and vending to others to be used, said invention or discovery of an improvement in post-office boxes, a description whereof was given in the words of said Brooks in the schedule annexed to said reissued letters patent; that said new letters patent were issued in the name of the United States, and were signed by the Secretary of the Interior, and were countersigned and sealed with the seal of the Patent Office by the Commissioner of Patents, and were issued and delivered to the said Brooks, as administrator; and thereupon, after the issuing of said reissued letters patent No. 4963 as aforesaid, said Brooks, administrator, put the said invention into use through the instrumentality of your orator.

And your orator further shows to your honors that heretofore and on or about the 24th day of April, 1877, said Brooks, finding that said reissued letters patent No. 4963, which had been reissued to said Brooks, administrator as aforesaid, were still inoperative by reason of a defective or insufficient specification, and the said error having arisen by inadvertency, accident, and mistake and without any fraudulent or deceptive intention on the part of said Yale or said Brooks, said Brooks, as administrator, with the concurrence of your orator, surrendered said letters patent to the Commissioner of Patents according to the statutes of the United States in such case made and provided.

And your orator further shows that thereafter, by assignment in writing duly signed, delivered, and recorded in the Patent Office,
the said Silas N. Brooks, as such administrator, duly assigned
6 all his right, title, and interest in and to the said letters patent and any and every reissue thereof to your orator, who is now the owner thereof, and requested that the said patent be reissued to your orator.

And the said Brooks having amended the specification of claim in accordance with the decision of the said Commissioner in the premises, and having paid the fees prescribed by and in all other things having complied with the statutes of the United States in such case made and provided, new letters patent of the United States for the same invention were, on the 24th day of April, 1877, issued and delivered to your orator according to law, whereby there was granted to it and its successors or assigns for the then unexpired term of seventeen years from the 19th day of September, 1871, the full and exclusive right and liberty of making, constructing, using, and vending to others to be used, the said invention or discovery of an improvement in post-office boxes, a description whereof was given in the words of said Brooks in the schedule annexed to said reissued letters patent; that said new letters patent were issued in the name of the United States, and were signed by the Secretary of the Interior, and were countersigned and sealed with the seal of the Patent Office by the Commissioner of Patents, and were numbered 7625, and were issued and delivered to your orator; and thereupon, after the issuing of said reissued letters patent No. 7625 as aforesaid, the said invention was put into use through the instrumentality of your orator.

And your orator prays that the said reissued letters patent and the schedule annexed thereto as aforesaid may be deemed and taken as part of its bill, and to the originals of said reissued letters patent and schedule or a duly authenticated copy thereof now in your orator's possession and ready to be produced it craves leave to refer.

7 And your orator further shows your honors that heretofore and on or about the first day of July, 1879, your orator finding that the said reissued letters patent number 7625 which had been reissued to your orator as aforesaid were still inoperative by reason of a defective or insufficient specification, and the said error having arisen by inadvertency, accident, and mistake and without any fraudulent or deceptive intention on the part of said Yale or Brooks or your orator, your orator surrendered said letters patent number 7625 to the Commissioner of Patents according to the statutes of the United States in such case made and provided.

And your orator having amended this specification of claim in accordance with the decision of the said Commissioner in the premises, and having paid the fees prescribed by and in all other things having complied with the statutes of the United States in such case made and provided, new letters patent of the United States for the same invention were, on the 1st day of July, 1879, issued and delivered to your orator according to law, whereby there was granted to it and its successors or assigns for the unexpired term of seventeen years from the 19th day of September, 1871, the full and exclusive right and liberty of making, constructing, using, and vending to others to be used, the said invention or discovery of an improvement in post-office boxes, a description whereof was given in the words of your orator in the schedule annexed to said reissued letters patent; that said new letters patent were issued in the name of the

United States, and were signed by the Secretary of the Interior, and were countersigned and sealed with the seal of the Patent Office by the Commissioner of Patents, and were numbered 8783, and were issued and delivered to your orator; and thereupon, after the issuing of said reissued letters patent No. 8783 as aforesaid, the said invention was put into use through the instrumentality of your orator.

8 And your orator prays that the said reissued letters patent and the schedule annexed thereto as aforesaid may be deemed and taken as part of its bill, and to the originals of said reissued letters patent and schedule or a duly authenticated copy thereof now in your orator's possession and ready to be produced it craves leave to refer.

And your orator, The Yale Lock Manufacturing Company, has, ever since the date of the said assignment to it, been and now is entitled to all the rights, interests, and privileges thereby secured unto it in and to the said invention or discovery in the said letters patent particularly set forth, and is now and ever since the date thereof has been entitled to the exclusive use of the said invention and improvement within the limits aforesaid.

And your orator further shows unto your honors that the said invention or discovery so patented aforesaid is of very great utility, and that the same has been extensively introduced into public use, and that the public have generally acquiesced in your orator's exclusive right to the same, and your orator would, but for the wrongful acts of the said defendant and others acting in concert with him, have made large gains, profits, and advantages from the manufacture, use, and sale of the said invention, and your orator would, but for the wrongful acts and doings of the said defendant and others acting in concert with him, now be enabled to use the said improvement in post-office boxes, to which it is entitled to the exclusive right as aforesaid, with profit and advantage, but that by the said wrongful acts and doings it is now prevented and hindered from so doing.

And your orator further shows unto your honors that said several reissued letters patent have been in controversy in several suits and proceedings and have been uniformly sustained.

9 That said reissue No. 7625 was first in controversy in a suit in equity in the circuit court of the United States for the eastern district of New York, brought by your orator against one John L. Chambers, then doing business as the Johnson Rotary Lock Co., and who had manufactured large numbers of infringing boxes, and had supplied large numbers and sets of the same to post offices in the United States.

In said suit the defendant appeared and answered, denying the validity of said patent and his infringement thereof. Evidence was taken on behalf of your orator, and afterward said defendant abandoned his alleged defense in said suit, and a decree was rendered against him and a perpetual injunction issued restraining further infringement.

Said reissue No. 7625 was again in controversy in a certain suit in equity in the circuit court of the United States for the southern dis-

trict of New York, brought by your orator against the National Lock Manufacturing Co., a corporation then commencing the sale of infringing post-office boxes in the city of New York.

In said suit your orator caused to be noticed a motion for a preliminary injunction, and, the same coming on to be heard, the defendant therein abandoned any attempt at defense, and an injunc- was duly issued against it.

After the grant of said reissue No. 8783 your orator filed a bill in equity in the circuit court of the United States for the district of Connecticut against the Scovill Manufacturing Co., who are a large and responsible corporation and who had shortly before commenced the supply of infringing post-office boxes to post offices and postmasters. In said suit said defendants appeared by counsel and filed an answer, to which replication was filed by your orator, and thereupon both parties proceeded to take proofs, and the same were taken at length; and thereafter said cause came on to be heard in said court at the city of Hartford, Connecticut, before the
10 Honorable Nathaniel Shipman, judge, and was argued by counsel for the respective parties; and thereupon and thereafter, after due consideration, an opinion was rendered by said court sustaining the validity of the first and second claims of said reissue, and deciding that the said defendants had infringed the same, and thereupon a decree was in due form entered and an injunction issued restraining the defendants from any further infringement.

And your orator further shows that on the 29th day of November, 1880, it duly filed in the Patent Office a disclaimer of the fourth and fifth claims of said reissue, as by reference to a duly authenticated copy thereof, which your orator brings here into court, will more fully appear.

And your orator further shows unto your honors, upon information and belief, that the said defendant, well knowing the premises and the rights and privileges secured unto your orator, and in order to deprive it of the profits, benefits, and advantages which might and otherwise would have accrued to it at the city of New York and within the said southern district of New York, and without the license and permission of your orator, has, since the 1st day of July, 1879, unlawfully and wrongfully made or caused to be made, sold or caused to be sold, post-office boxes, each and all containing the said improvements and combinations described and claimed in the aforesaid reissued letters patent, and particularly in the first three claims thereof, to wit:

"1. The combination, substantially as specified, of a series of metallic door frames and doors with a series of wooden pigeon holes, whereby a series of post-office boxes with a continuous metallic frontage is formed.

"2. The combination, substantially as described, of a series of wooden pigeon holes with series of metallic door frames and doors, and with rivets or bolts which attach the frames to the wood-
11 work, whereby a continuous metallic frontage, secured to the woodwork of pigeon holes, is obtained.

"3. The combination, substantially as described, of a series of

wooden pigeon holes with a series of metallic door frames and doors, and with rivets or bolts which attach the frames both to the wood-work and to each other, the combination being substantially such as described:" the exclusive right to which is secured to your orator as hereinbefore set forth, and which said unlawful making, use, and sale by the defendant as aforesaid is a violation and infringement of your orator's exclusive rights and privileges, and that the said defendant has derived and received and is still deriving and receiving from such use great gain and profit, but to what amount your orator is ignorant and cannot set forth, but your orator prays that the defendant may be required to make a disclosure of all such gains and profits.

And your orator in like manner avers that the defendant, though requested to desist from such unlawful use and to pay to your orator such gains and profits as the defendant had actually made, refuses so to do; by means whereof your orator is and has been greatly injured, and is now prevented from putting the said inventions or discoveries into successful operation, and is deprived and prevented from receiving the gains and profits to which it is lawfully entitled from the exclusive rights and privileges so granted and secured to it as aforesaid, and which it would have derived and acquired and would now derive and acquire but for the said wrongful acts of the said defendant.

And your orator prays that the said defendant may be compelled by a decree of this honorable court to account for and pay over unto your orator all such gains and profits as have accrued or arisen to or been earned or received by the said defendant, and all such gains and profits as your orator would have received but for the said wrongful acts and doings of the said defendant, and all
12 damages your orator has sustained thereby, and that this honorable court will assess the same or cause them to be assessed under its direction, and will increase the same in its discretion as provided by law.

And that the defendant, his associates, attorneys, solicitors, clerks, servants, agents, and workmen, may be perpetually enjoined and restrained by the decree of this court from directly or indirectly making or causing to be made, using or causing to be used, or vending to others to be used in any manner any post-office boxes containing or embodying the said invention granted by the said letters patent as issued aforesaid, and from infringing upon or violating the said letters patent by the use or sale of said post-office boxes in any way whatsoever, and that the said defendant may be decreed to pay the costs, charges, and disbursements of this suit, and that your orator may have such other relief as the equity of the case may require and as to your honors may seem meet.

To the end, therefore, that the said defendant may, if he can, show why your orator should not have the relief hereby prayed, and may full, true, direct, and perfect answer make, according to the best of his or his clerks', agents', or workmens' knowledge, remembrance, information, and belief, to the several matters hereinbefore averred and set forth as fully and particularly as if the same were here re-

peated paragraph by paragraph and he was thereto severally and specifically interrogated, may it please your honors to grant to your orator a writ of *subpœna ad respondendum*, issuing out of and under the seal of this honorable court, directed to the said defendant, Thomas L. James, commanding him to be and appear and make answer unto this bill of complaint, and to perform and abide by such order and decree herein as to this court may seem required by the principles of equity and good conscience.

13 May it also please your honors to grant to your orator a provisional or preliminary injunction, issuing out of and under the seal of this honorable court, enjoining and restraining the defendant, his attorneys, solicitors, clerks, servants, workmen, and agents to the same purport, tenor, and effect hereinbefore prayed for in regard to said perpetual injunction.

And your orator will ever pray, &c.

THE YALE LOCK MANUFACTURING CO.,
By HENRY R. TOWNE, *P't.*

BETTS, ATTERBURY & BETTS,
Complainant's Solicitors.
FREDERIC H. BETTS, *of Counsel.*

UNITED STATES OF AMERICA, }
District of Connecticut, } *ss:*

On this 29th day of November, 1880, before me came Henry R. Towne, to me personally known, who, being by me duly sworn, did depose and say that he is the president of the complainant in the foregoing bill of complaint named, and that he has read the said bill subscribed by him and knows the contents thereof, and that the same is true of his own knowledge, except as to matters which are therein stated to be on information and belief, and as to those matters he believes it to be true.

HENRY R. TOWNE.

Sworn to before me this 29th of November, 1880.
[L. S.] SCHUYLER MERRITT,
Notary Public.

(Endorsed:) U. S. circuit court, south. dist. of New York. The Yale Lock M'f'g Co. *vs.* Thomas L. James. Bill of complaint. Betts, Atterbury & Betts, compl't's sol'rs. U. S. circuit court. Filed Feb. 17, 1881. Joseph M. Deuel, clerk.

14 Circuit Court of the United States for the Southern District of New York. Equity.

THE YALE LOCK MANUFACTURING COMPANY

vs.

THOMAS L. JAMES.

To the clerk of the court:

I appear for the defendant herein. Please enter my appearance accordingly.

New York, April 4, 1881.

Yours, &c., STEWART L. WOODFORD,
U. S. Att'y.

(Endorsed:) Equity. Circuit court U. S., so. dist. N. Y. Yale Lock Man'f'g Co. *vs.* Thomas L. James. Appearance of def't, Stewart L. Woodford, U. S. att'y U. S. circuit court. Filed Apr. 4, 1881. Joseph M. Deuel, clerk.

15 Circuit Court of the United States for the Southern District of New York. In Equity.

THE YALE LOCK MANUFACTURING COMPANY, Complainant,

vs.

THOMAS L. JAMES, Defendant.

The answer of Thomas L. James to the bill of complaint heretofore exhibited against him by the Yale Lock Manufacturing Company.

This defendant, saving and reserving unto himself all benefit and advantage of exception which may or can be taken to the many errors and uncertainties in said bill contained, for answer thereto or to so much and such parts thereof as he is advised is or are material or necessary for him to answer says:

I. That it is true that he, this defendant, is of the city, county, and State of New York, and that he has no knowledge or belief or information (except from said bill) that the complainant is a
16 corporation duly created and organized and doing business under the laws of the State of Connecticut, or that said complainant has its principal office for the transaction of business in Stamford, Fairfield county, Connecticut, or that said complainant is a citizen of the United States, and therefore he leaves the complainant to make such proof of the allegations in that behalf in the bill contained as it is advised is material or necessary.

II. That he has been informed, believes, and admits that on the 19th day of September, 1871, the letters patent of the United States signed, countersigned, and sealed as in said bill stated, numbered 119,212, purporting to grant for the term of seventeen years from said day the full and exclusive right and liberty of making, constructing, using, and vending to others to be used an alleged invention or discovery described as an improvement in post-office boxes,

were issued to the said Silas N. Brooks, as the administrator of said Linus Yale, Jr., on an application therefor made at some time prior thereto by the said Linus Yale, Jr., but this defendant has no knowledge or belief and no information, except from said bill and from the fact that said letters patent were granted, as to whether or not the allegations of said bill respecting the decease of said Yale, the appointment and qualification of said Brooks as administrator of the estate of said Yale, the performance by said Yale and the said Brooks of the necessary conditions and requirements of law preliminary to the issuance of letters patent are true, and therefore he leaves the complainant to make such proof of the said allegations in the bill contained as it may be advised is material or necessary.

III. That he has no knowledge or belief and no information, except from said bill, that after the issuance of said letters patent the said Brooks, administrator, put the said alleged invention into use through the instrumentality of the complainant or otherwise, and therefore he leaves complainant to the proof of the allegations in that behalf in the bill contained.

IV. That he has been informed, believes, and therefore admits that on the 9th day of July, 1872, new letters patent, signed, coun-
17 tersigned, and sealed as in said bill stated, numbered reissued letters patent No. 4963 were, upon a surrender of said original letters patent, granted and issued to the said Silas N. Brooks as administrator for the residue of the term of said original letters patent, but this defendant has no knowledge or belief and no information, except from said bill and from the issuance of said reissued lesters patent, whether or not the allegations in said bill respecting the performance of the conditions and requirements of law preliminary to the granting of reissued letters patent and the putting of said alleged invention into use through the instrumentality of the complainant after the issuance of said reissued letters patent are true, and therefore leaves the complainant to the proof of the said allegations.

And with reference to said reissued letters patent this defendant says that he is advised and believes and therefore alleges that the said original letters patent No. 119,212 were not inoperative or invalid by reason of an insufficient or defective specification, and that said reissued letters patent are and have ever been for that reason invalid, and that said reissued letters patent are not for the same invention as said original letters patent, but contain material new matter, and that said reissued letters patent are and have ever been for that reason invalid.

V. That he has been informed, believes, and admits that on the 24th day of April, 1877, new letters patent, signed, countersigned, and sealed as in said bill stated, numbered reissued letters patent No. 7625, were, upon a surrender by said Brooks of said reissued letters patent No. 4963, granted and issued at the request of said Brooks to the complainant as his assign for the residue of the term of said original letters patent, but this defendant has no knowledge or belief and no information, except from said bill and from the fact of the issuance of said reissued letters patent No. 7625, whether or

not the allegations in said bill respecting the performance by said Brooks and said complainant of the conditions and requirements of law preliminary to the granting of reissued letters patent and the putting of said alleged invention into use after the issuing of said reissued letters patent No. 7625 through the instrumentality
18 of the complainant are true, and therefore he leaves the complainant to the proof of the said allegations.

And with reference to the said reissued letters patent No. 7625 this defendant says that he is advised and believes and therefore alleges that the said original letters patent were not invalid or inoperative by reason of a defect or insufficient specification, and that therefore said reissued letters patent No. 7625 are and have ever been invalid, and that said reissued letters patent No. 7625 are not for the same invention as said original letters patent, but contain material new matter, and that therefore said reissued letters patent No. 7625 are and have ever been invalid.

VI. That he has been informed, believes, and therefore admits that on the 1st day of July, 1879, new letters patent, signed, countersigned, and sealed as in said bill stated, numbered reissued letters patent No. 8783, were, upon a surrender by said complainant of said reissued letters patent No. 7625, granted and issued to the complainant for the residue of the term of said original letters patent, but this defendant has no knowledge or belief and no information, except from said bill and from the fact of the issuance of said reissued letters patent No. 8783, whether or not the allegations in said bill respecting the performance by the complainant of the conditions and requirements of law preliminary to the granting of reissued letters patent and the putting of said alleged invention into use after the issuance of said reissued letters patent No. 8783 through the instrumentality of the complainant are true, and therefore he leaves the complainant to the proof of the said allegations.

And with reference to said reissued letters patent No. 8783 this defendant says that he has been advised and believes and therefore alleges that said original letters patent were not invalid or inoperative by reason of a defective or insufficient specification, and that therefore said reissued letters patent No. 8783 are and have ever been invalid, and that said reissued letters patent No. 8783 are not for the same invention as said original letters patent, but contain material new matter, and that therefore said reissued letters patent No. 8783 are and have ever been invalid.

19 VII. That he has no knowledge or belief and no information except from said bill whether or not the allegations in said bill respecting an assignment in writing by said Brooks as administrator to said complainant of said patent and its reissues and respecting the ownership of said patent and its reissues and of the rights, interests, and privileges alleged to be thereby secured are true, and therefore he denies the said allegations and leaves the complainant to the proof thereof.

And this defendant alleges that if in fact any assignment in writing of said patent and its reissues and of the rights and privileges alleged to be thereby secured has ever been executed by said

Brooks as administrator to the complainant such assignment was subject to the rights, interests, and title of the heirs-at-law of said Linus Yale, Jr., in whom as *cestuis que trust* by the law to the knowledge of the complainant was vested all the beneficial interest, right, and title in and to the letters patent issued to the administrator of said Yale, and said heirs-at-law of said Yale (whose names are not known to this defendant) should have been made parties to this suit.

VIII. That he has no knowledge or belief and no information except from said bill, whether or not the allegations in said bill respecting the alleged utility of the said alleged invention or discovery, and respecting the extensive introduction into public use of said alleged invention, and respecting the general acquiescence of the public in complainant's alleged exclusive right therein, and respecting the gains and profits which the complainant would have made under certain contingencies, and respecting the suits on one or another reissue of said patent are true, and therefore he leaves complainant to the proof of said allegations.

IX. That he has been informed, believes, and therefore admits, that a disclaimer of the 4th and 5th claims of said reissued patent was filed in the Patent Office, as stated in said bill, but he craves a production thereof, and denies that the position of the complainant in this suit is thereby in any respect improved.

X. That, as this defendant is advised and believes, it is not true that since the said 1st day of July, 1879, at the city of New York or elsewhere, he has made or caused to be made, sold or caused to be sold, used or caused to be used, any post-office boxes containing the said alleged improvements and combinations described and claimed in the said reissued letters patent No. 8783.

XI. That, as this defendant is informed and believes, the alleged infringement of the said reissued letters patent complained of consists of the fact that from the said 1st day of July, 1879, down to the filing of said bill this defendant was postmaster of the United States at the city of New York, and of the further fact that during that time there were in the post office in said city certain post-office boxes adapted to receive and hold, and which did receive and hold, mail matter till it should be and was taken away by the persons to whom it was addressed, which boxes were rented or leased by the United States through this defendant as postmaster to sundry persons; that the said post-office boxes were paid for by and were the property of the United States; that they were not placed in said post office by this defendant, but by the United States through its agents; that the rent therefor was a part of the postal revenue of the United States, and was paid to the United States and not to this defendant; that in no respect were said boxes a source of personal profit, advantage, or emolument to this defendant; that it was not within the power or discretion of this defendant to remove or alter said boxes, and that he is advised and believes that did said post-office boxes in fact contain and embody the alleged patented improvements and combinations, which on information and belief this defendant denies, the use thereof in the postal service of the United States at the post

office in New York city while this defendant was postmaster is not an infringement by this defendant of the said reissued letters patent and does not make him liable to this suit.

XII. That this defendant is advised and believes that the combinations of mechanism and alleged improvements specified in said letters patent did not require the exercise of invention to make at the time of their supposed invention by said Yale in view of other combinations, structures, and mechanism then existing and
21 publicly and generally known, and that the same did not possess patentable quality at the time of the issuance of said original letters patent, and that consequently said original and said reissued letters patent are and have ever been invalid.

XIII. That this defendant is informed and believes that the said Yale was not the original and first inventor of any material and substantial part of the thing patented, but that the same and every material and substantial part thereof had been known and used by the persons and at the places following prior to the supposed invention and discovery thereof by the said Yale—that is to say:

1. John E. Earle, who resides at New Haven, Connecticut, at said New Haven and at Worcester, Mass.

2. Nehemiah D. Sperry and David W. Thompson and Giles G. Thomson and Francis E. Harrison and Enos A. Hale and August Ockert and Rudolph Blaterman, all of whom reside at New Haven, Connecticut, at said New Haven.

3. Alfred B. Mullett, who resides at Elizabeth, N. J., at Cincinnati, Ohio, and at Chicago, Illinois.

4. Isaiah Rogers, now deceased, at the post office at Cincinnati, Ohio.

5. Frederick H. Moore and Lyman L. Barber and William L. Burt, who now reside at Boston, Mass., at said Boston.

6. Walter K. Marvin and Willis B. Marvin and Louis Schosch and Alfred A. Valentine and Alexander Eagleson and John B. Cornell and Francis H. Jenks and J. M. Cornell and William A. Mitchell, who reside at the city of New York, at said New York.

7. C. S. Squiers, who resides at Chicago, Illinois, at said Chicago.

8. John L. Chambers, who resides at Red Bank, New Jersey, at the city of New York.

9. William H. Butler, who resides at Brooklyn, New York, at said Brooklyn and at the city of New York.

10. Frederick Foster, who resides at Elizabeth, New Jersey, at the city of New York.

11. George H. Vose, who resides at Astoria, New York, at the city of New York.

12. Alexander T. Groser, who resides at Paterson, New Jersey, at the city of New York.

22 13. Asahel Davis, who resides at Lowell, Mass., at said Lowell.

14. The National Park Bank of the City of New York and the Safe Deposit Company of the City of New York, at said New York.

15. L. F. Munger, who resides at Rochester, New York, at Shelburne Falls, Mass., and at Boston, Mass.

16. Peleg Clark, Jr., who resides at Westerly, Rhode Island, at said Westerly and at Providence, Rhode Island.

17. F. W. Keil, who resides at Fort Wayne, Indiana, at said Fort Wayne.

18. Wm. K. Osgood, Joshua F. Oram, John R. Irwin, MacSlosser, Wm. Butler, F. M. Clowry, who reside at Chicago, Illinois, at said Chicago.

19. John Perry and Nathan Perry, who reside at Albany, N. Y., at said Albany and at Troy, N. Y.

And that the same had been patented before the supposed invention or discovery thereof by said Yale in the following letters patent, namely: U. S. patent to Asahel Davis, No. 69637, dated October 8, 1867; U. S. patent to John A. Gallaher, Jr., No. 14233, dated Feb. 12, 1856, and U. S. patent to J. Burrows Hyde, No. 25866, dated Oct. 18, 1859.

XIV. That this defendant is informed and believes that the combinations and alleged improvements specified in said letters patent were not the invention of said Yale solely, but were devised, constructed, and invented—if any invention in that behalf was in fact required, which on information and belief this defendant denies—jointly by said Yale and by William L. Burt, who now resides at Boston, Mass., and consequently said original and reissued letters patent are and have ever been invalid.

XV. That this defendant is informed and believes that substantially the same combinations of mechanism which are specified in said letters patent had been in public use in this country at the city of New York by the Safe Deposit Company of the City of New York for more than two years before said Yale applied for said
23 original letters patent, and that consequently said original and reissued letters patent are and have ever been invalid.

And as to all the allegations of said bill not hereinbefore mentioned and denied this defendant leaves the complainant to make such proof thereof as it may be advised is material; and as to all the matters and things herein alleged this defendant is ready and willing to maintain and prove the same as this honorable court shall direct; and he humbly prays to be hence dismissed with his reasonable costs and charges in this behalf most wrongfully sustained.

STEWART L. WOODFORD,
U. S. Attorney, Solicitor and of Counsel.

DISTRICT OF COLUMBIA, *ss:*

Thomas L. James, being duly sworn, says that he is the defendant herein; that he has read the foregoing answer and knows the contents thereof, and that the same is true to the best of his knowledge, information, remembrance, and belief.

(S'g'd) THOMAS L. JAMES.

Subscribed and sworn to before me this 4th day of June, 1881.

[NOTARIAL SEAL.] (S'g'd) JAMES LAWRENSON,
Notary Public.

(Endorsed:) United States circuit court for the southern district of New York. The Yale Lock Manufacturing Company, complainant, *versus* Thomas L. James, defendant. S. L. Woodford, U. S. attorney, solicitor for defendant. U. S. circuit court. Filed June 6, 1881. Joseph M. Deuel, clerk.

24 *Replication.*

Circuit Court of the United States, for the Southern District of New York.

YALE LOCK MANUFACTURING COMPANY *vs.* THOMAS L. JAMES.

The replication of the complainant to the answer of the respondent.

The repliant, saving and reserving unto itself, now and at all times hereafter, all and all manner of advantage of exception to the manifold insufficiencies of the said answer, for replication thereunto, says that it will aver and prove its said bill to be true, certain, and sufficient in the law to be answered unto, and that the said answer of the defendant is uncertain, untrue, and insufficient to be replied unto by the repliant, without this, that any other matter or thing whatsoever in the said answer contained material or effectual in the law to be replied unto, confessed and avoided, traversed or denied, is true; all of which matters and things the repliant is and will be ready to aver and prove as this honorable court shall direct, and humbly prays as in and by its said bill it has already prayed.

Dated New York city, 8th June, 1881.

BETTS, ATTERBURY & BETTS,
120 *Broadway, New York City, Complainant's Solicitors.*

(Endorsed:) U. S. circuit court, southern district of New York. Yale Lock M'f'g Co. *vs.* Thomas L. James. Replication. Betts, Atterbury & Betts, 120 Broadway, N. Y. city, solicitors for complainant. U. S. circuit court. Filed Jun- 8, 1881. Joseph M. Deuel, clerk.

25 Circuit Court of the United States for the Southern District of New York. In Equity.

THE YALE LOCK MANUFACTURING COMPANY

vs.

THOMAS L. JAMES.

Proofs for final hearing taken on the part of the complainant in the above cause, under and pursuant to the 67th rule, in equity, as amended, before Joseph Gutman, Jr., examiner.

N. Y., *October* 24, 1881—11 a. m.

Adjourned to November 26, 1881, at 11 a. m.

JOSEPH GUTMAN, JR., *Examiner.*

N. Y., *November* 26, 1881—11 a. m.

Further adjourned to day to be fixed.

JOSEPH GUTMAN, JR., *Examiner.*

26 N. Y., *February* 28, 1882—11 a. m.

Present: Frederic H. Betts, Esq., counsel for complainant, and S. B. Clark, Esq., ass't U. S. attorney, counsel for defendant.

Counsel for complainant offers in evidence stipulation as to boxes, &c., dated N. Y., December 28, 1881, and the same is marked Complainant's Exhibit James' Stipulation, J. G., Jr., examiner, February 28, 1882; also models mentioned in said stipulation, and the same are marked Defendant James' Exhibit Boxes Nos. 1 and 2, J. G., Jr., examiner, February 28, 1882.

SCHUYLER MERRITT, a witness of lawful age produced on the part of the complainant, having been by me first duly cautioned and sworn to testify the truth, the whole truth, and nothing but the truth in the matter of controversy herein and being examined by Mr. BETTS, counsel for complainant, deposes and says as follows:

Q. 1. What is your name, age, residence, and occupation?

A. Schuyler Merritt; my age is twenty-eight years; I reside at Stamford, Connecticut, and by occupation am secretary of the Yale Lock Manufacturing Company.

Q. 2. Are you familiar with the construction of post-office lock boxes having metallic fronts; and, if so, to what extent?

A. I am; for more than four years I have been in charge of the post-office department of the complainant—that is, that department of the business which is occupied in manufacturing and sell-

27 ing metal-fronted post-office lock boxes and other post-office equipments. In the course of such occupation I have become very familiar with the construction of the metal-fronted lock boxes made by the complainant, and also such boxes which have from time to time been made by Johnson's Rotary Lock Company, the National Lock and Manufacturing Company, the Scovill Manufacturing Company, and also with a number of patents relating to this subject-matter belonging to the complainant and others.

Q. 3. Are you familiar with the metallic-fronted lock boxes used by the defendant, specimens of which have been put in evidence and marked Defendant's Exhibit James' Boxes Nos. 1 and 2, and have you seen such boxes arranged for use in the post office?

A. I am, and have.

Q. 4. Are you familiar with the reissued letters patent to the complainant, dated July 1, 1879, No. 8783?

A. I have read said reissue, and believe that I am familiar with it.

Complainant's counsel offers in evidence certified copy of reissued letters patent granted the Yale Lock Manufacturing Company, dated July 1st, 1879, No. 8783, and the same is marked Complainant's Exhibit Reissued Letters Patent, J. G., Jr., Ex'r, February 28, 1882.

Q. 5. Are you familiar with disclaimer filed November 29, 1880, *in re* the said reissued letters patent No. 8783?

A. I have read said disclaimer, and I believe I am familiar with it.

Complainant's counsel offers in evidence disclaimer filed November 29, 1880, *in re* reissue letters patent granted the Yale
28 Lock Manufacturing Company, and the same is marked Complainant's Exhibit Disclaimer, J. G., Jr., Ex'r, February 28, 1882.

Q. 6. To what extent, if at all, do the Yale Lock Manufacturing Company manufacture metallic-fronted post-office boxes under and in accordance with said letters patent?

A. Said company has manufactured to date about 175,000 such boxes and in accordance with said patent.

Q. 7. Do you understand the invention referred to in the 1st, 2d, and 3d claims of reissue No. 8783?

A. I believe I do.

Q. 8. Please compare the specimens of defendant's boxes, as the same are described as used in series, by the stipulation and by the models, with the construction and arrangement of boxes referred to in the 1st, 2d, and 3d claims of reissue No. 8783, and state whether or not you find that the said defendant's boxes, when so arranged in series, embody any invention described in those claims.

A. Referring, 1st, to the boxes described in the stipulation and illustrated by Defendant James' Exhibit Boxes No. 1, I find that the construction of said boxes may be exactly described by quoting from the specification of said reissue as follows viz:

"The body of the boxes or the series of pigeon holes is to be made of wood in any usual manner, and the fronts thereof, viz., the doors and their frames, are to be made of iron or other suitable metal. Each door frame is of such size that it aids in covering the ends of the wooden partitions that form the pigeon holes to which it is applied, and these frames (see Fig. 1) are of such size and shape that where a series of them are combined with a series of pigeon holes they cover the whole of the ends of the wood."

29 This description applies equally well to the boxes illustrated in Defendant James' Exhibit Boxes No. 2. In Exhibit No. 1 the frames are attached by means of bolts which are passed through holes made at about the middle of the upright partitions of each box. Each bolt has a projecting head upon its front, which head laps over the side of each of two adjoining frames; and, being held fast by a nut at the rear, serve to hold the frames fast to the pigeon-holes. The frames in Exhibit No. 2 are fastened to the pigeon holes by means of ears which are screwed to the wooden partitions as described in the stipulation.

Referring now to Exhibit No. 1 and to the 1st claim, I find that said exhibit consists of a series of metallic door frames and doors, which is combined with a wooden series of pigeon holes. Each frame is so constructed as to cover half of the partitions of the box to which it is attached, and therefore when all the frames are in place the adjoining edges of the frames abut against each other, whereby a series of post-office boxes, with their continuous metallic frontings, is formed. As therefore Exhibit No. 1 is constructed in

exact accordance with the specification and first claim of said reissue, I am of the opinion that it embodies the invention claimed in said first claim.

Passing now to the 2d claim, with reference to Exhibit No. 1, I find that the subject-matter of the claim is the same as that of claim No. 1, except that an additional element of rivets or bolts attached to the frames or wood-work is also required. I find that in Exhibit No. 1 the frames are attached to the wood-work by means of bolts, and the rest of the subject-matter of the claim being exactly found in the exhibit as heretofore set forth, I am of the opinion that said exhibit embodies the inventions also as claimed in said second claim.

The 3d claim requires as an additional element that the rivets or bolts which attach the frames to the wood-work will also attach them to each other. I do not find that the bolts in Exhibit
30 No. 1, which attach the frames to the wood-work, attach them to each other, and I am therefore of the opinion that said exhibit does not embody the invention claimed in said third claim.

On examining Exhibit No. 2, I find that said exhibit embodies the inventions described in the first two claims of said reissue, and that it does not embody the inventions set forth in the third claim for the same reasons set forth with reference to Exhibit No. 1.

Q. 9. What effect, if any, different from that produced by the method of fastening metallic fronts to the wooden pigeon holes described in complainant's reissued letters patent would be caused by the method of fastening practiced in the case of the New York post-office lock boxes, as shown in the models?

A. No effect.

Q. 10. Does the slant to the wooden partitions forming the upper and lower partitions of the pigeon holes, as shown in the model marked Defendant James' Exhibit Boxes No. 2, produce any different effect from that described in complainant's reissued letters patent?

A. It does not.

Q. 11. What effect, if any, different from that produced by the method of fastening metallic fronts to the wooden pigeon holes described in the complainant's reissued letters patent would be caused by different positions of the bolts around the edges of the metallic fronts, at the corners, or by screws through the flange of the metal front within the pigeon hole?

A. No effect; I do not consider the different methods of fastening referred to as in any way material with reference to the first two claims of said reissue.

Q. 12. What effect, if any, different from that described in complainant's reissued letters patent would be caused by different positions of the hinges of the doors on the frames, so that the
31 doors open to the right, left, up, or down, or would be caused by the wooden pigeon holes, metallic fronts and doors, the arrangement remaining the same, being of a different size from that shown in the two models, or would be caused by the doors being of a different pattern?

A. None whatever; such changes would be merely in form and would not go to the essence of the invention at all.

Q. 13. Are you familiar with the suits and proceedings in which said several reissued letters patent have been in controversy, referred to in the bill of complaint herein?

A. I believe I am.

Complainant's counsel offers in evidence certified copy of the opinion of the court in the suit of The Yale Lock Manufacturing Co. *vs.* The Scovill Manufacturing Co., in the district of Connecticut, filed June 29th, 1880, and the same is marked "Complainant's Exhibit Scoville Opinion," J. G., Jr., Ex'r, Feb. 28, 1882.

Objected to on the ground that it is irrelevant and immaterial and also on the ground that the pleading and evidence on which that opinion was based ought to be offered with it.

Complainant's counsel offered in evidence a certified copy of an order in the case of The Yale Lock Manufacturing Company *vs.* The National Lock Manufacturing Company, in the southern district of New York, dated the 29th day of March, 1879, and the same is marked Complainant's Exhibit National Lock Order, J. G., Jr., Ex'r, February 8, 1882.

Objected to as irrelevant and immaterial and because the
32 whole record of the cause, if anything, should be offered.

Complainant's counsel offers in evidence certified copy of the decree in the suit of The Yale Lock Manufacturing Company *vs.* John L. Chambers, doing business as the Johnston Rotary Lock Company, in the eastern district of New York, and dated ——, and the same is marked Complainant's Exhibit Chambers Decree, J. G., Jr., February 28, 1882.

Same objection.

Direct examination closed.

Cross-examination:

X Q. 14. Mr. Merritt, I noticed in the lower hall of the Equitable building some metallic front boxes for mail matter. Do you know how they are constructed?

A. There are some constructed by the complainant and some made by some other party; I am acquainted with the construction of the first, but not of the others.

X Q. 15. Tell us how those are constructed which you know of.

A. The pigeon holes are of wood, and there are door frames and doors of metal, the whole being so arranged that when the frames are attached to the pigeon holes there is a continuous metallic frontage.

X Q. 16. You consider that those boxes as arranged are constructed according to the patent in suit?

A. The Yale boxes just referred to I think are constructed in accordance with the patent in suit.

X Q. 17. Which claims in the patent cover them?

A. The first three claims.

X Q. 18. What are they for, mail matter?

33 A. Yes; mail matter may be put into them, and also articles which are perhaps not strictly mail matter.

X Q. 19. How is the mail matter put into them?

A. Through an opening in the front.

X Q. 20. Are the backs of the boxes opened or closed?

A. Closed.

X Q. 21. Has the complainant's company furnished series of pigeon holes and metallic frames constructed under this patent, with the backs closed, to any other persons than the owners of the Equitable building?

A. They have.

X Q. 22. How extensively?

A. It has, I should say, to about one dozen different places.

X Q. 23. I understand it to be your opinion, then, that this patent covers series of wooden pigeon holes and metallic frames so arranged as to present a continuous metal front, even though the boxes so formed are not post-office boxes?

A. I am not prepared to give an opinion about the general scope of the patent without reference to particular cases.

After recess.

2 O'CLOCK P. M.

X Q. 24. You have spoken of the "essence" of the Yale invention. What is the "essence" of that invention?

A. I spoke of the essence with reference to a particular state of facts given in the question; I am not prepared to give a general definition of the essence of the patent further than as it is set forth in the specification and claims thereof.

X Q. 25. Is the method of fastening the frames and doors to the partitions a part of the essence?

Objected to as the patent is in evidence and speaks for itself.

34 A. I cannot answer that question without knowing the specific structure to which it may refer.

X Q. 26. Why not?

A. Because there might be cases in which the method of fastening would be material and others where it would not.

X Q. 27. My question related to the case made in the specification of the patent, whether, in your opinion, the method of fastening is a part of the combinations claimed.

A. In the 1st claim of that patent I do not find that there is any reference to any method of fastening; in the 2d and 3d claims I find that the method of fastening is referred to.

X Q. 28. What method of fastening is referred to in the 2d claim, as you understand it?

A. A method by which the frames are attached to the wood-work by rivets, bolts, or their equivalents.

X Q. 29. It says substantially as described, does it not?

A. It does.

X Q. 30. Where in the specification do you find the method of fastening which is in Exhibit Boxes No. 1?

A. In the 2d paragraph of the 2d column of page 1. The specification states that where a series of these frames are combined with a series of pigeon holes they cover the whole ends of the wood. In Exhibit 1 the frames are so combined with the agency of bolts. In the next paragraph but one, after the paragraph just mentioned, the specification states that when the frames are all in place each frame is riveted or bolted to the wood-work to fasten it thereto. As shown in the patent, the frames are bolted to the wood-work by bolts which pass through the upright partitions on a plane parallel to the fronts; whereas, in Exhibit No. 1 the bolts pass through the partition on a plane at right angles to the front, but this difference I do not regard as material.

35 X Q. 31. Has the complainant ever manufactured any pigeon holes and doors and frames all of metal?

A. It has.

X Q. 32. Under this patent?

A. I am not prepared to say whether under this patent or not.

X Q. 33. And why?

A. I am not clear in my recollection as to the exact method of manufacture.

X Q. 34. For what purposes were they made?

A. Those that I have in mind were made for a model for the Patent Office and to exhibit at the Centennial Exposition.

X Q. 35. Were they exhibited at the exposition?

A. I think they were. I was not connected with the company at that time.

X Q. 36. How many boxes were put together for that purpose?

A. A small number; I don't know exactly.

X Q. 37. What were they intended to be used for?

A. Post-office lock boxes.

X Q. 38. Have any other been made all of metal, except these, that you know of?

A. Not to my knowledge.

X Q. 39. You say that the company has made 175,000 post-office boxes under this patent?

A. I do, about.

X Q. 40. Do you mean that they have made the wood-work and metal frames and all and furnished them to different people?

A. I do.

X Q. 41. Can you give me the net cost to the company per box?

Objected to as immaterial and as not responsive to the direct evidence.

36 A. I decline to answer, on the ground that it would work an injury to the complainant's business to make such information public.

Defendant's counsel now asks that the examiner adjourn the examination of Mr. Merritt to the 4th day of March next to give

defendant's counsel an opportunity to obtain the decision of the court as to whether witness shall answer X Q. 41 or not.

Complainant's counsel objects to such adjournment on the ground that the witness is attending this examination from out of the city, and requests the defendant's counsel to proceed with the further examination of the witness, if he has any such, reserving his objection, which it is agreed may be heard with the same effect as now, after the conclusion of the rest of the witness' deposition.

To meet Mr. Merritt's convenience as much as possible, defendant's counsel offers to go before the court with the record and take a ruling at once or as soon as suits the convenience of complainant's counsel.

The examiner states that it is only about 3 o'clock, and that he has no authority to adjourn the proceedings without the consent of complainant's counsel, and directs the examination to proceed.

Redirect examination:

Objected to at this stage because defendant's counsel states that he has other questions to ask this witness on cross-examination,
37 and defendant's counsel states that he will ask those questions when the witness answers the question which he has refused to answer, or when it is ruled that he need not answer the question.

Complainant's counsel offers the witness for further cross-examination, if desired.

X Q. 42. Mr. Merritt, will you now answer X Q. 41 which is as follows: Can you give me the net cost to the company per box?

Same objections.

A. I decline to answer on the same grounds.

Redirect by Mr. F. H. Betts:

The direct examination objected to at this stage on the ground that the cross-examination is not finished, defendant's counsel having other questions to ask the witness when he has answered the question he has declined to answer, or when that question has been ruled on.

Same offer by complainant's counsel.

X Q. 43. Cross-question 42 repeated.

A. Same answer.

As defendant's counsel declines to put any further question, complainant's counsel requests the witness to sign his deposition.

Objected to because the cross-examination is not completed yet.

The examiner directs the witness to sign unless defendant's counsel has further questions to ask other than the last question, and will now proceed to propound them.

38 Defendant's counsel says that he has further questions to ask, but he cannot properly put them until the question the witness has refused to answer has been ruled on or answered.

The examiner directs the witness to sign.
Objected to as above by defendant's counsel.

SCHUYLER MERRITT.

Sworn to before me—

JOSEPH GUTMAN, JR., *Examiner.*

Complainant's *prima facie* case closed.

NEW YORK, *February* 15, 1883, at 11 a. m.

Present: Mr. F. H. Betts, counsel for complainant; Mr. Clark, assistant U. S. district attorney, and Mr. James, for defendant.

HIRAM A. TYLER, a witness of lawful age, produced on behalf of complainant, having been by me first duly cautioned and sworn to testify the truth, the whole truth, and nothing but the truth in the matter in controversy herein, and being examined by Mr. BETTS, says:

Q. 1. What is your name, age, residence, and occupation?

A. Hiram A. Tyler; 59 years of age; Stamford, Connecticut; foreman in the Yale Lock Manufacturing Company; always worked at tool-making and experimenting.

39 Q. 2. Did you know Linus Yale, Jr., the inventor of metallic-front post-office boxes which are manufactured by your company?

Objected to as assuming what is not proven.

A. I did.

Q. 3. How long did you know him?

A. I knew him from the time he was thirteen or fourteen until he died, and he died when he was 42 years of age.

Q. 4. Are you familiar with the manufacture of metallic-front post-office boxes manufactured by the Yale Manufacturing Company?

A. I am.

Q. 5. How have you become familiar with the construction of those boxes?

Objected to as incompetent and immaterial and not proper in rebuttal.

A. By always being connected with the firm—making the first patterns.

Q. 6. Is any department of the work of constructing said boxes under your special charge; if so, what?

Same objection.

A. They are all under my charge; the whole manufacture of them.

Q. 7. Have you had charge of the manufacture of such boxes ever since the company commenced making them?

Same objection, and as leading.

A. I have not.

Q. 8. How long have you had such charge?

Objected to as incompetent and immaterial and not proper in rebuttal.

40 A. I can't tell how many years. I can't remember; if I had my books I could tell.

Q. 9. About how many years?

Same objection.

A. More or less, I should think about ten or twelve years—off and on ever since they started.

Q. 10. Who first called your attention to the idea of making a post-office box with a metallic front and door?

Objected to as incompetent, immaterial, and not proper in rebuttal.

A. Linus Yale, Jr.

Q. 11. When was that?

Same objection.

A. In 1863.

Q. 12. What part of 1863?

Same objection.

A. I can't tell the day, but it was in June.

Q. 13. Please tell us briefly the circumstances under which Linus Yale, Jr., called your attention to this idea about making the post-office box with metallic front and door.

Same objection.

A. He and I went to the Adirondacks fishing—to Lake Piseco—and while I was resting he was drafting, and that was one of the models he drew at that time.

Q. 14. Please state whether you were connected with him in business at that time. And, if so, how?

Same objection.

A. I was a contractor. I contracted work from him and worked by the day also.

41 Q. 15. What was Mr. Yale's concern at that time?

Same objection.

A. It was "Yale & Greenleaf."

Q. 16. Where was his place of business for manufacturing?

Same objection.

A. Shelburn Falls, Massachusetts.

Q. 17. What was Mr. Yale's firm's business at that time?

Same objection.

A. Making locks; both bank locks and small locks; safe locks.

Q. 18. What work was you accustomed to do for him?

Same objection.

A. I used to make tools and make experiments.

Q. 19. Was Mr. Yale an inventor?

Same objection.

A. He was.

Q. 20. Did he make many inventions?

Same objection.

A. A great many.

Q. 21. What did his inventions relate to?

Same objection.

A. Mostly to locks and to a great many different things.

Q. 22. Give the names; tell as many as you can remember.

Same objection.

42 A. It would be something hard for me to tell; there was a great many; I would say that at the time he drew the metal post-office front he also made a sketch of a machine for putting fulminating in shells for cartridges.

The last sentence of the answer objected to; also on the ground that it is irresponsive, and defendant's counsel moves to strike it out.

Q. 23. You say that Mr. Yale called your attention to the idea of a metal-front post-office box in June, 1863; please state how you are able to fix that date.

Objected to as incompetent, immaterial, and not proper in rebuttal.

A. I have got to fix it by transactions. I sold out my interest in his father's business in 1861 and went down to work for him, and in 1862 I didn't go back; in 1863 he and I went fishing, and that was the time he made the sketch.

Q. 24. How long did you stay in the Adirondacks on this fishing expedition with Mr. Yale?

Same objection.

A. Between two and three weeks.

Q. 25. You say he was drafting during this trip. On what did he make his drawings?

Same objection.

A. On a large memorandum.

Q. 26. What do you mean by a memorandum?

Same objection.

A. It was a very large memorandum book; it was probably a book of 6 inches or 6½ by 4.

43 Q. 27. Was Mr. Yale accustomed to carry such memorandum book at other times?

Same objection.

A. He always carried it.

Q. 28. Now, tell us what he said and did, as near as you can, when he called your attention to this idea of the metal-front post-office box.

Same objection.

A. He showed me the sketch and what it was for.

Q. 29. Where was you at the time?

Same objection.

A. We were in the shanty at the foot of the Lake Piseco.

Q. 30. Do you remember the sketch that he showed you at that time well enough to draw it now?

Same objection.

A. I could.

Q. 31. Please make a sketch like that shown you by Mr. Yale on the occasion mentioned, as you remember it.

Same objection.

Witness does so.

The drawing produced is offered in evidence and marked "Exhibit Yale Adirondack Drawing."

Objected to as incompetent and immaterial and not proper in rebuttal, and because the original is not accounted for.

44 Q. 32. Did Mr. Yale at the time explain the sketch that he made to you? And, if so, state, as nearly as you can remember, what he said.

Objected to as incompetent, immaterial, and not proper in rebuttal.

A. He showed me the drawing and what it was for.

Q. 33. State what he said about it, as nearly as you can remember.

Same objection.

A. Well, I say he showed it to me, and what it was for.

Q. 34. Did he tell you what the different parts of the drawing represented?

Same objection.

A. I could read the drawing; he didn't need to tell me that.

Q. 35. Did he tell you what the part which I have marked on the drawing with the letters A A A A were intended to show?

Same objection, and as leading.

A. He did everything in perspective; he drew everything so plain you could see it; it showed the whole.

Q. 36. Did he tell you anything about the material which he intended to use for this purpose?

Same objection, and as assuming what is not in evidence.

A. All that I can remember, he said that he was to make it with a metal front.

Q. 37. What did you understand from the drawing that he made that the parts I have marked A A A A were?

Objected to as incompetent, immaterial, and not proper in rebuttal.

45 A. A metal front to attach to pigeon holes.

Q. 38. And what did you understand that the part marked F was?

Same objection.

A. The continuation—can I make a statement?

Q. 39. Certainly.

Same objection.

A. I had made a row of wooden boxes and put in the post office—the first I ever saw—and put locks on them, the same locks as we used in the mail boxes in Philadelphia; I made about seven thousand for the city of Philadelphia and put locks on them, the same as I put on the wooden boxes I made; he claimed a metal front would take up less space and look better.

Q. 40. You have not yet told us what the part I have marked F in the drawing was intended to represent.

Same objection.

A. It is an ear to fasten it to the wood.

Q. 41. Did you understand that that ear was to project upwards or backwards?

Same objection.

A. It was to project in.

Q. 42. What did you understand that the part I have marked B was?

Same objection.

A. Metal.

Q. 43. What was its use?

Same objection.

A. To hold the lock.

46 Q. 44. What was the part marked C intended to represent?

Same objection.

A. Metal bar.

Q. 45. For what purpose?

Same objection.

A. Support the glass.

Q. 46. What were the parts marked D D?

Same objection.

A. Glass.

Q. 47. What was the part shown on the drawing which I have marked E intended to represent?

Same objection.

A. That was a connection—continuation.

Q. 48. I don't understand just what you mean. What was it a continuation of, and made of what?

Same objection.

A. Continuation of boxes—fronts.

Q. 49. Do you mean a part of another front?

Same objection.

A. Part of another front; it couldn't mean anything else.

Q. 50. How was the box to be opened, as you understood it at the time?

Same objection.

A. With a key.

Q. 51. What part opened with the key?

Same objection.

47 A. The door.

Q. 52. Which is the door in that drawing?

Same objection.

A. All you could see there would be the B and the D, and the C would be contained in the door.

Q. 53. After you came home from the Adirondack trip, when you saw the sketch, did you do anything more about this invention?

Same objection.

A. We did not in over a year.

Q. 54. What next did you do?

Same objection.

A. The first I done was to make a pattern and get a brass casting of it.

Q. 55. What was this pattern of?

Same objection.

A. Made of mahogany.

Q. 56. And what was this pattern for?

Same objection.

A. To get a brass casting of.

Q. 57. Brass casting of what?

Same objection.

A. Post-office box front.

Q. 58. Can you fix the time when you made this pattern for the post-office box front?

Same objection.

A. I can, exactly.
Q. 59. How can you fix that time exactly?

Same objection.

48 A. By my time book.
Q. 60. What was this time book?

Same objection.

A. Where I kept my time and my men's time.
Q. 61. Have you got that original book here?

Same objection.

A. I have.
Q. 62. Please produce it.

Witness does so.

Q. 63. Please refer to that book and tell me the date when you made the pattern in question?

Same objection, and further that the book is not in evidence.

A. New post-office pattern, November 8, 1864.
Q. 64. Who kept the book that you have produced?

Same objection.

A. I kept it myself.
Q. 65. Are the entries in it in your handwriting?

Same objection.

A. They are.
Q. 66. Did you make the entries at the time they are dated?

Same objection.

A. I did, because that was my day's work. I should not get paid if I didn't.

The book produced by the witness is now offered in evidence and marked "Exhibit Tyler Time Book."
Objected to as immaterial, incompetent, and not proper in rebuttal.

49 Q. 68. Please turn to the entry in said book by which you fix the time of making the pattern in question.

Witness does so. The entry is marked "Exhibit Post-Office Box Entry."

Q. 69. I notice that the entry under date of November 8, 1864, reads as follows: "New Post-Office Model." Why did you enter it in the book as a model?

Same objection.

A. Well, it was something new.
Q. 70. What is the meaning of the figure 8 in the column for the eighth day of the month on that page?

Same objection.

A. Eight hours labor.
Q. 71. Eight hours labor, on what?

Same objection.

A. On pattern.
Q. 72. Where was it that you made this post-office box pattern on November 8, 1864?

Same objection.

A. At Shelburne Falls, Massachusetts.
Q. 73. Do you know what has become of that pattern?

Same objection.

A. I can't tell. I have looked for it, but can't find it.
Q. 74. Who were you working for when you made that pattern?

Same objection.

A. Linus Yale, Jr.
50 Q. 75. Did he give you any directions about making that pattern; and if so, what?

Same objection.

A. All he gave me was a sketch and figures.
Q. 76. What was the sketch and figures?

Same objection.

A. It was a sketch of a post-office box front, frame, and door.
Q. 77. Have you preserved that sketch?

Same objection.

A. I have not—only in my mind.
Q. 78. Please now reproduce the sketch as you remember it.

Same objection.

A. That (referring to Exhibit Yale Adirondack Drawing) is as near as I can recollect, but I think that is a little too big.
Q. 79. Please tell us the dimensions of this pattern that you made on November 8, 1864.

Same objection.

A. I should think the opening was three inches by four, to the best of my memory.
Q. 80. And what was the width of the frame on each side of the opening?

Same objection.

A. It was not far from a $\frac{1}{4}$ of an inch from the flange.
Q. 81. And about how wide was the flange?

Same objection.

51 A. It would be over an eighth.

Q. 82. Was there any arrangement in the casting for attaching the frame to a box?

Same objection.

A. An ear; top and bottom.

Q. 83. Were there any ears on the side?

Same objection.

A. No; none on the side.

Q. 84. Was there any door in this pattern that you made?

Same objection.

A. There was.

Q. 85. How was that arranged to be connected to the frame?

Same objection.

A. Hinges.

Q. 86. How many hinges?

Same objection.

A. Two.

Q. 87. Was the door arranged to be provided with glass?

Same objection.

A. It was.

Q. 88. You say that you took a casting from this pattern; how soon after making the pattern did you take the casting?

Same objection.

A. A few days; it couldn't be more than a few days; I cut the guts out of a draw lock for the first lock used, and attached a flange to it to screw to the door; soldered the flange to it.

52 Q. 89. Did you get a good casting from this pattern?

Same objection.

A. Of course; we always got what we went for in the shape of castings.

Q. 90. Did you attach this casting to any post-office box?

Same objection.

A. No; I never done that.

Q. 91. Did you put any glass into the metal door made from the casting?

Same objection.

A. I finished it.

Adjourned till Friday, February 23, 1883, at 11 a. m.

NEW YORK, *February* 23*d*, 1883, at 11 a. m.

Present: Mr. F. H. Betts, counsel for complainants; Mr. Clark, assistant U. S. district attorney, and Mr. James, for defendant.

Examination of witness TYLER continued by Mr. BETTS:

Q. 92. At the last examination you spoke of having made for Mr. Yale on the 8th of November, 1864, a mahogany pattern for a post-office box front, and you stated that you were now unable
53 to find the original pattern. Please state whether you have now made a new mahogany pattern like the one which you made on November 8, 1864.

Objected to as incompetent and immaterial and not proper in rebuttal.

A. I have, as near as I can remember.

Q. 93. Please produce it.

Same objection.

The witness does so.

The pattern produced is offered in evidence and marked "Exhibit Yale 1864 Pattern."

Same objection.

Q. 94. You spoke also at the last examination of having taken a casting from the pattern of 1864. Have you taken a casting from the new mahogany pattern which you have made? If so, produce it.

Same objection.

A. Yes.

Witness produces the casting.

Q. 95. You said also that you finished up this casting—put a glass in the door and attached a door lock—the flange of which you soldered on. Please state if you have done the same with the present casting which you have produced as you did in the case of the casting of 1864.

Same objection.

A. I have, as near as I can possibly remember.

Q. 96. Is the lock that you have put upon the present casting of the front the same kind of lock that you put upon the one made in 1864?

Same objection.

A. It is.

54 Q. 97. And how does the finished casting, with its lock and glass and hinges, compare with the casting which you say you finished up in 1864?

Same objection.

A. It is, as nigh as I can remember. There may be a little difference in the size. It is impossible to say nearer than it is.

Q. 98. Except a possible difference in size, is there any other difference between the one you have produced and the one of 1864?

Same objection.

A. Well, it is, as nigh as I can remember.

Q. 99. Did the casting of 1864 have a flat-surfaced front like this one, without any beading?

Same objection.

A. It did.

Complainant's counsel offers in evidence the cast front produced by the witness and marked "Exhibit 1864 Yale Metal Front."

Same objection.

Q. 100. What became of the original metal front of 1864?

Same objection.

A. That I could not tell you.

Q. 101. Did it remain about the shop?

Same objection.

A. Not to my knowledge. We melted a good many of the old castings after Mr. Yale died.

Q. 102. I mean before his death do you remember whether the casting was kept or not?

Same objection.

55 A. No; I could not tell you.

Q. 103. Now, when next after the making of this metal front of 1864 did you make any more metal fronts for post-office boxes?

Same objection.

A. It is a very hard matter for me to get at. We moved down to Stamford in 1869, and we made that big office for Boston some time—more than a year—before we moved down, as far as I can remember; it may vary; I am doing the best I can to you.

Q. 104. You remember, do you, the making of the metal-front boxes for the Boston post office?

Same objection.

A. I did not make the metal fronts; I made the locks.

Q. 105. You say that you made the locks for the Boston metal fronts. Did you know of metal fronts being made for that office?

Same objection.

A. I did.

Q. 106. About how many separate metal fronts were made for the Boston post office at that time before the company moved down to Stamford?

Same objection.

A. Over six thousand, if I remember right.

Q. 107. State, as near as you can, how long your company was engaged on that work before delivering those fronts for the Boston post office.

Same objection.

A. That is a pretty hard question; about four or five months, certain.

56 Q. 108. Do you remember before the company commenced to make the boxes for the Boston post office having seen at their works a large sheet-metal frame with a large number of door holes cut in it?

Same objection.

A. I do; I remember the thing you are trying to get at; I don't know what became of it.

Q. 109. Do you remember where this frame was said to have come from?

Same objection.

A. They told me it came from Boston.

Q. 110. When that front frame came from Boston, do you know what, if anything, Mr. Yale did with it?

Same objection

A. He never done anything, to my recollection, with it.

Q. 111. What did he do, to your recollection, with reference to furnishing metal fronts for the Boston post-office boxes?

Same objection.

A. Well, he made a metal door and front, single.

Q. 112. How did that door and front resemble the one you made for him in 1864?

Same objection.

A. Well, it was narrower and longer, to the best of my recollection, and had a bead all around it which showed a sunk panel where the lock was.

Q. 113. Do you remember his making more than one pattern for these single fronts and doors at that time?

Same objection.

57 A. I can't tell whether we made Nos. 1, 2, and 3 for that office or not.

Q. 114. Except that the single fronts and doors were narrower and longer than the front of 1864, and was provided with a bead on the front, was there any difference in construction and mode of operation?

Same objection.

A. Yes; it had an ornament round the nose of the lock, and the lock was screwed on.

Q. 115. Was there any other difference?

Same objection.

A. I don't think there was.

Q. 116. Do you remember whether the separate fronts which were supplied to the Boston office at that time had two ears for attaching the fronts to the pigeon holes (like the 1864 fronts) or more?

Same objection.

A. I am pretty sure they had four lugs, instead of two, where they were riveted on.

Q. 117. About how long after this frame came from Boston was it before Mr. Yale got up the first of the single fronts and doors?

Same objection.

A. I can't tell that; I might come somewheres near and get a little wild.

Q. 118. State it as near as you can.

Same objection.

A. Well, it might be three or four—four or five months—I can't remember that.

58 Q. 119. Do you remember who made the pattern for the single fronts and doors which Mr. Yale got up for the Boston office?

Same objection.

A. No; I can't tell you who made that pattern.

Q. 120. You have spoken of Mr. Yale's death; when did he die?

Same objection.

A. He died two or three days before Christmas, 1868; nobody can know the day.

Defendant's counsel states that as there cannot be a ruling upon the preceding objections now upon which he insists, he cross-examines the witness conditionally upon such ruling when it can be had by the court.

Cross-examined by Mr. CLARK:

X Q. 121. Mr. Tyler, will you please take this piece of paper and write on it the words "New Post-Office Model" in pencil?

Witness writes — paper, marked "Exhibit Tyler Handwriting."

X Q. 122. You have written the words "New P. O. Model;" please write out in full on the same piece of paper the words "New Post-Office Model."

Witness does so, marked "Exhibit Tyler Handwriting No. 2."

X Q. 123. Now, please write the following words: "Tyler" with a capital T; "Self" with a capital S; "Nov." for November; "keys" with a small k; "Co." with a capital C, and the following numbers: 5, 4, 3, 14½, 3¼, 18, 8¼, 48.

Witness does so, marked "Exhibit Tyler Handwriting No. 3."

59 X Q. 124. Please write now three times the words "New Post Office Model."

Witness does so, marked "Exhibit Tyler Handwriting No. 4."

X Q. 125. Have you any recollection of making the entry "New Post-Office Model" in the book "Exhibit Tyler Time Book?"

A. No; I don't; I don't remember it independently; I don't remember such a small affair.

X Q. 126. As I understand you, it is only because you think that entry in your time book is in your handwriting that you are able to state you made the model you have described in 1864?

A. Yes; that is correct.

X Q. 127. Are you a good judge of handwriting?

A. No; I don't profess to be; I can tell my own.

X Q. 128. Is there any of Linus Yale, Jr.'s, handwriting in "Exhibit Tyler Time Book?"

A. Not that I know of in here; this is all my own.

X Q. 129. Could Linus Yale, Jr., write?

A. Yes, sir.

X Q. 130. How do you know he could?

A. I have seen him.

X Q. 131. How many times, about?

A. I have seen him write hundreds of times.

X Q. 132. Do you think you would know his handwriting if you should see it?

A. Well, I don't know that I could pick it out from other men's handwritings; I am not an expert at that.

X Q. 133. Look at the paper I show you on which the words "I am very respectfully, Linus Yale, Jr.," are exposed to view, the rest of the writing being covered up, and state in whose handwriting those words I have quoted are.

60 Objected to as not proper cross-examination or responsive to direct: also because the witness' competency as an expert is not shown.

A. I should say that looked like his hand.

X Q. 134. Well, it is your opinion that it is his handwriting?

Same objections.

A. I should think it was; I ain't expert enough to tell; it looks like it.

Paper marked "Defendant's Exhibit Yale's Signature for Identification, February 28, 1883, J. G., examiner."

Same objections.

X Q. 135. I believe you stated that all the writing in this time book is, according to your judgment, your own?

A. The examiner's mark is not in my handwriting; I think all the rest is mine; I don't know of anything else.

X Q. 136. You have stated that you don't remember writing in

the time book the words "new post-office model;" when, according to your recollection, did you first see those words there?

A. Well, I can't tell you exactly what time; it may be a year or so or more; I can't say.

X Q. 137. Who called your attention to them, then?

A. Mr. Merritt wanted me look over my old time books.

X Q. 138. Did you find the entry yourself or did somebody point it out to you?

A. We were both looking over together.

X Q. 139. Down to that time where had this time book been?

A. In my private drawer in my tool case.

X Q. 140. Can you say that the book had not been taken out of that drawer until then, since you finished making entries in it?

61 A. I cannot; I have taken them out a great many times to get other things that were in the way.

X Q. 141. Had anybody ever had them in their hands prior to your going over them with Mr. Merritt, as you say?

A. Not that I know of, but I look over my back books to establish any particulars that I want to know about, very often; that is the reason I preserve them.

X Q. 142. Where was this chest kept during the six months previous?

A. It was kept in my room that I had charge of in the Yale lock shop.

X Q. 143. Was it kept locked all the time?

A. No, sir; it never was kept locked, only at noons and nights.

X Q. 144. How many times recently have you made a reproduction in pencil of the Adirondack drawing?

A. Twice.

X Q. 145. Did you make it anywhere but in this room when I was present?

A. Yes; I made one in another room.

X Q. 146. Who was present there?

A. Mr. Betts and Mr. H. B. Renwick.

X Q. 147. Did you draw it as you recollected it and show it them without suggestions from them?

A. Yes.

X Q. 148. As so drawn and shown to them without any suggestion from them, was it the same as this Exhibit "Adirondack Drawing" in all respects?

A. As nigh as I can recollect; it is only a sketch—there ain't no drawing in it.

X Q. 149. As so drawn and shown to them, was the part E on your sketch?

A. I can't tell you whether that was on or not; I won't say; I can't remember.

X Q. 150. Who suggested making the broken line at the foot of the part E, do you recollect?

62 A. I don't recollect that anybody suggested it.

X Q. 151. Where were you in June, 1867?

A. Shelburne Falls, Massachusetts.

X Q. 152. Did you go fishing that year out of the town?

A. No; I went out of the town, but not far out; 12 or 15 miles.

X Q. 153. Did you in 1868?

A. No; I ain't been fishing since Yale and I went to the Adirondacks together the last time except once when I went with other parties.

X Q. 154. How many times did you go there with Yale?

A. That I couldn't tell you.

X Q. 155. Can you tell when you went there?

A. No; I can't tell that; we fished a good many times there in different lakes—Pardey's Lake, Twin Lakes, Lake Pisecos, Round Lake, Becker's, Jock White's, and a good many ponds, and West Canada creek, in Upper Canada.

X Q. 156. What post office did you fit up with wooden doors and locks?

A. Newport, New York; I only made a few for private individuals.

X Q. 157. How far is Newport, New York, from Shelburne Falls?

A. The way we used to go it would be 250 miles; since the Hoosac tunnel it has shortened the distance 60 or 70 miles.

X Q. 158. Was that job at the Newport post office done by you or by Yale and Greenleaf?

A. It was done by me.

X Q. 159. While you and Yale were away on a fishing excursion?

A. Done before.

X Q. 160. How did you come to do so small a job so far away from home?

A. It was done before I moved; Yale moved first and I moved after him; the shops were then at Newport.

63 X Q. 161. When did you move from Newport to Shelburne Falls?

A. I think the last of September, 1861.

X Q. 162. When did you put up those boxes in the Newport post office?

A. It was before then.

X Q. 163. On your direct examination you say that Yale claimed the metal front would take up less space and look better than your wooden boxes. When was it that he made that claim—when you put up the Newport boxes?

A. No; it was after that; when we were fishing we talked that matter over, as far as I can remember.

X Q. 164. Did you tell him what you had done at the Newport post office?

A. He and I had seen them together before we went to the woods.

X Q. 165. How did you come to talk about these Newport boxes while you were fishing?

A. He made a drawing of a metal front in his book.

X Q. 166. About how many sketches in his memorandum books did he ever show you altogether—as many as fifty?

A. He did.

X Q. 167. As many as a hundred?

A. Well, I could not tell; I should say more; he was often sketching.

X Q. 168. How is it, after fifteen or twenty years, you are able to point out the exact time and the exact place, when and where, he showed you a particular sketch out of a hundred or more which you say he showed you from time to time?

A. Well, I date it from the last time we went fishing in the Adirondacks; the last time we went together.

X Q. 169. What other drawings did he show you then; of what other things?

64 A. He showed me a sketch that he made for putting fulminate into shells to be made into cartridge manufacturing.

X Q. 170. Won't you now make another reproduction of Yale's sketch of the post-office box front?

Witness does so; sketch marked "Adirondack Drawing No. 2."

X Q. 171. How positively can you swear that this Exhibit "Adirondack Drawing No. 2" is a correct reproduction of Mr. Yale's original sketch as he showed it to you?

A. Well, I haven't taken pains to divide it at all; if I had divided it lower down it would be as near as I can remember, and that is pretty near.

X Q. 172. I understand that if in Exhibit No. 2 you had put the part representing the bar, which I mark C, lower down, then you are positive this exhibit would be a correct reproduction of Yale's original sketch; is that right?

A. I wouldn't say that as to exact size; but it has the same look.

X Q. 173. Referring to the post-office frame which you were told came from Boston, was that frame attached to pigeon holes when you saw it?

A. I think it was; I won't be positive, but I think it was.

X Q. 174. Do you remember how the frame was attached?

A. No; I don't; I had nothing to do with it.

X Q. 175. How large about was it?

A. I may get it very wild; I should think it was about three feet long, to the best of my memory; I may be wrong.

X Q. 176. It was the whole thing, frame and pigeon holes, which you were told came from Boston, was it not?

Objected to as improper, as the witness has stated that he won't be positive there were any pigeon holes.

65 A. Yes.

X Q. 177. About how many pigeon holes were there?

A. I could not answer that question.

X Q. 178. What workmen made the casting from the 1864 model?

A. His name is Bemant, if I remember right; I do not know his first name; he is dead and gone.

X Q. 179. Who fitted on the lock?
A. I did and made the lock.
X Q. 180. Who made the key?
A. I can't tell you whether I made it or one of my men; I used to do it and they did.
X Q. 181. Is there any one now living except yourself who did any work either on the model or the casting?
A. No, sir.
X Q. 182. Did you give the casting to Mr. Yale?
A. Yes, sir; he had it all after I got done with it.
X Q. 183. What was the first post office that your company did any work for?
A. I can't tell that; they can tell you at the factory.

Adjourned till Wednesday, February 28, 1883, at 11 a. m.

"EXHIBIT TYLER HANDWRITING." Feb. 23, 1883. J. G., Jr., Ex.

YALE LOCK CO. *vs.* JAMES.

New P. O. model.

"EXHIBIT TYLER HANDWRITING No. 2." Feb. 23, 1883. J. G., Jr., Ex.

YALE LOCK CO. *vs.* JAMES.

New post-office model.

66 "EXHIBIT TYLER HANDWRITING No. 3." Feb. 23, 1883. J. G., Jr., Ex.

YALE LOCK CO. *vs.* JAMES.

Tyler, self, Nov.
Keys, Co.
5, 4, 3, 14½, 14½, 3¼, 18, 8¼, 48.

"EXHIBIT TYLER HANDWRITING No. 4." Feb. 23, 1883. J. G., Jr. Ex.

YALE LOCK CO. *vs.* JAMES.

New post-office model.
New post-office model.
New post-office model.

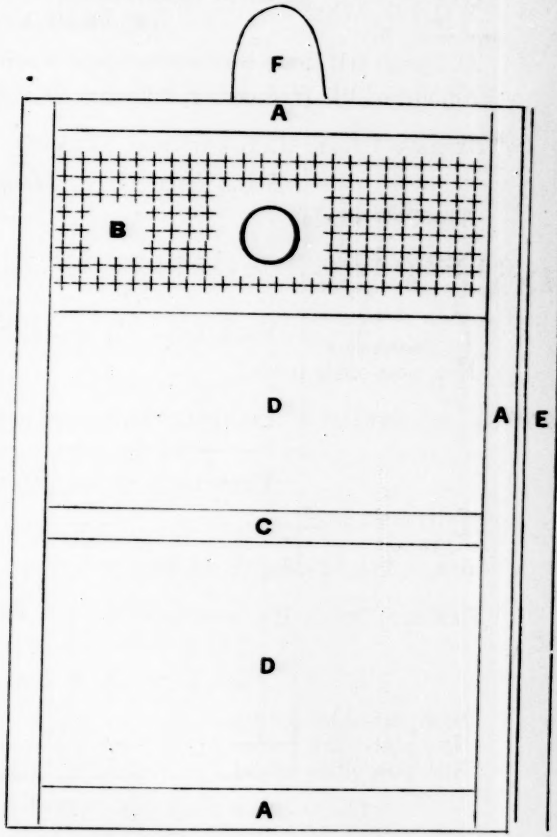
(Here follow diagrams marked pp. 67 & 68.)

69 N. Y., *February* 26, 1883—at 12 m.

Present: Fred'c H. Betts, Esq., counsel for complainants; Mr. Clark, assistant U. S. district attorney, for defendant.

HENRY B. RENWICK, a witness of lawful age, produced on the part of the complainants, having been by me first duly cautioned and sworn to testify the truth, the whole truth, and nothing but the

"Exhibit—Yale—Adirondacks Drawing."



No 162.
Yale Lock
Mfg. Co.
v.
James
p. 67

truth in the matter in controversy herein, and being examined by Mr. Betts, of counsel for the complainants, says:

Q. 1. What is your name, age, residence, and occupation?

A. Henry B. Renwick; residing in the city of New York; 65 years of age, and by profession a civil and mechanical engineer, and have been for a number of years last past almost exclusively occupied in matters relating to patented inventions.

Q. 2. Are you familiar with post-office boxes of the different forms which have been in use in this country for a number of years past, and do you understand their construction and modes of use of different kinds of said boxes, and the advantages of the different forms of construction used?

A. I have been familiar with post-office boxes since 1834, having first examined those in use in the old New York post office, which were wooden pigeon holes set behind a glazed sash, and since then have seen and examined the various boxes in use. I do not know that I have seen all of them, and believe that I understand the construction of all of them that I have seen and the way in which they are used and the advantages of the different forms.

Q. 3. Have you read and do you understand the reissued letters patent granted to the complainant as assignee of Linus Yale, Jr., dated July 1st, 1879, No. 8783?

70 A. I have read the reissue many times and believe I understand it thoroughly; I drew the reissue, except the last two claims.

Q. 4. Have you read and do you understand the original patent, dated September 19, 1871, No. 119,212, of which reissue No. 8783 is a reissue?

A. I have frequently read and believe I understand the contents of the original patent referred to in the question.

Q. 5. Have you also read and do you understand the prior reissues of the said original patent, to wit, No. 4963, dated July 9, 1872, and No. 7625, dated April 24, 1877?

A. I have read those reissues and believe I understand the contents thereof.

Q. 6. Please compare the original patent to Yale, dated September 19, 1871, with reissue No. 8783 and state whether, in your opinion, the said reissue is for the same invention as that described in the original patent; you may refer in your answer to the difference between the drawing of the reissue and that of the original patent pointed out by Mr. Hicks in his deposition on behalf of the defendant.

Objected to as calling upon a witness to put a construction upon written documents, which is for the court to do.

A. The reissue No. 8783 referred to in the question describes precisely the same structure and the same invention as is described in the original patent, and the third claim of the reissue is the same as the second claim of the original patent. I drew the reissue by going back to the original patent.

The original patent has this language in it: "The sides of the frame *b b* enter and fit closely against the wood forming the pigeon holes, and may be continuous or notched out at intervals;" and by examining the drawings it will be seen that the letters *b b* are
71 placed on parts of this frame where it commences to project further than other parts of the frame into the box; and I understand this quoted phrase to state that a frame with notches cut in it clear up to the front of the pigeon holes may be used instead of a continuous frame, and it is perfectly obvious that if even this language were not in the original that the purpose of this side of the frame is to support the whole iron frame in proper relation to the wood, and that its duty would be performed in the same way, substantially, whether the frame was continuous or had notches cut in it so as to form several ears.

The corresponding phrase in the reissue is this: Each frame has an ear, *b b* (not several ears, but one ear), which enters the pigeon hole, but this ear may be either continuous or notched out at intervals. Now, the sole difference between the two statements is a verbal one, the parts called the sides of the frame in the original being called an ear in the reissue.

In the drawings of the original there is at figure 2d a vertical line, which shows in that figure the inner edge of the; door this vertical line is not found in figure 2d of the reissue, but this is a matter of no importance, because the inner edge of the door is clearly shown in figure 2d as well as in figure 3d and because the reissue and the patent on figure 2d show the rods F F in section, which rods are behind the glass and fastened to the door the; error is evidently a clerical one, and neither enlarges or diminishes this description. I may say further on this head that if figure 2d of the reissue were considered without reference to the description in the other drawing it would show that the door was fastened to the wooden pigeon hole so that it could never be opened.

Q. 7. Please refer to the first claim of the original patent and state whether, in your opinion, as said claim is worded, the said claim might be understood in different ways when considered either
72 in connection with the 2d claim or by itself; and, if so, how?

Same objection.

A. The only frame described in the original patent is one that covers the end of the wood-work so as, in connection with its neighbors, to protect the ends of the wood-work, and therefore the first claim might perhaps be held to cover only frames which did protect the ends of the wood-work; and if I were called upon to construe that claim and the second claim did not exist I should state that the first claim was limited, undoubtedly, to such a frame; but when the patent is taken as a whole, considering both the claims and their bearings each upon the other, it is my opinion that the first claim would include frames which did not cover the ends of the wood-work as well as frames which did not cover the ends of the wood-work—that is, it would cover frames composed of the sides of the frame *b b* only, whether those sides had or had not attached to

them "the flange *a a* which protects the outside of the wood-work."

Q. 8. In your opinion, then, would said original patent, as it was worded, when considered as a whole, cover and include in its first claim a combination of metal box fronts in which the metal fronts did not overlap so as to touch each other?

Same objection.

A. Yes; it would; and it would be even wider than that; it would cover frames that did not overlap the ends of the wood-work at all.

Q. 8½. Comparing, then, the 1st and 2d claims of reissue No. 8783 with the original patent, please state whether the effect to those claims has been to enlarge or restrict the claim of the original patent in the particulars you have mentioned.

73 Same objection, and because it is immaterial whether the claims have been narrowed or enlarged in those particulars.

A. The first and second claims of the reissued patent are narrower or more restricted in the particulars which I have mentioned in the original patent.

Recess till 2.45 p. m.

After recess.

Q. 9. Please compare the reissue No. 8783 with the first reissue of Yale's original patent, dated July 9, 1872, No. 4963, and state whether the claims of said reissue 4963 do or do not refer to the subject-matter of the 1st, 2d, and 3d claims of reissue 8783.

A. The first claim of the reissue 4963 is the same in words as the first claim of the original patent, but taking this reissue as a whole, including the second claim thereof, it is not so clear as it is in the original patent that the first claim includes frames without flanges to protect the wood edges of the partitions, because the second claim is distinguished from the first claim of this reissue No. 4963, not only by including the flanges which protect the wood ends (as in the original patent), but, secondly, by including the doors in the combination, and, thirdly, by excluding from the combination the rivets which unite the frames together.

The first claim of reissue 4963 will include all that is included by the 3d claim of reissue 8783. The same structure would be an infringement of both, and the second claim of reissue 4963 would include the combinations of the first and second claims of reissue 8783, ignoring, as I do, the word "lock" in the second claim of 4963, because it is evident that if the combination of claim second of reissue 4963 was old without the locks, then it could
74 not be made patentable by adding an ordinary lock to that combination.

The first claim of 4963 may be properly construed so as to be wider than any of the claims of reissue 8783, and the second claim of reissue 4963 to be as wide as the first claim of reissue 8783 and wider than the second and third claims of that reissue.

Q. 10. Have you read the evidence of the witnesses examined on behalf of the defendant and examined the exhibits introduced

showing or tending to show post-office boxes and other structures which existed prior to the date of Yale's original patent, and do you understand such prior post-office boxes and structures?

A. I have examined all the evidence of the defendant's witnesses and all the exhibits in question, and believe I understand such prior post-office boxes and structures.

Q. 11. Please examine, first, the post-office boxes made with wooden pigeon holes and provided with wooden doors, some of which are represented in the model marked "Defendant's Exhibit Wood-Front Boxes (Young)" and other slightly different forms, some of which are described by the witness Lewis as having been used prior to the introduction of metallic fronts in the Boston post office and others described in the stipulation of June 16, 1882, relating to the Fort Wayne boxes, and state whether, in your opinion, any of said pigeon holes in connection with which wooden doors were used embody the inventions referred to in the first or second claims of the Yale reissue 8783, and give your reasons for any opinion you may express.

A. The inventions set forth in the first and second claims of the Yale reissue No. 8783 are limited to wooden pigeon holes (and do not include metallic pigeon holes) and to pigeon holes open at the rear end, which series of wooden pigeon holes is protected by metal door frames covering the wood ends in such manner that the
75 wood cannot be attacked when the doors are closed, and these frames are shown as supported in place by ears or flanges, or both, entering into the wooden pigeon holes. The second claim, in addition to these features, also includes rivets or bolts which attach the metallic frames to the wooden pigeon holes.

The Defendant's Exhibit "Wood-Front Boxes (Young)" does show wooden pigeon holes, but it does not show any metallic front of any kind nor any front which is supported in any way by the pigeon holes nor a front which could be conveniently made of metal. It shows the old-fashioned contrivance of a series of wooden pigeon holes set behind an independent self-supported sash frame, the orifices in said frame being closed by wooden doors instead of by panes of glass as in the old New York post-office boxes, and there being of necessity no attachment between the sash frame and the pigeon holes; and, further, the frame is, as I understand it, one continuous frame for all the pigeon holes. There is furnished by this exhibit no idea of protecting wood by metal; no idea of making a series of frames, even of wood, and no idea of supporting the frames and doors by means of the pigeon holes, and, in my opinion, it has no bearing upon the invention claimed in the 1st and 2d claims of the reissue in the question referred to.

The testimony of the witness Lewis is not precise or definite, but, so far as I can understand him, he refers to a structure the same as Defendant's Exhibit Wood-Front Boxes, and the statement which I have made in respect to such exhibit applies to the boxes described by Lewis.

The stipulation of June 16th, 1882, describes a series of wooden pigeon holes open at the rear, with wooden doors hinged to the tops

and at the front of the pigeon hole; it is sufficient to say in relation to this structure that it contains no frames at all, either of wood or metal, and therefore has no bearing upon the 1st and 2d claims of reissue 8783.

76 Q. 11. Now, please compare the invention described in the 1st and 2d claims of the Yale reissue 8783 with the "safe-deposit boxes" described by the witnesses Foster and Butler, a model of some of which, said to have been made about 1867, has been put in evidence, marked "Safe-Deposit Company's Boxes," and state whether, in your opinion, the said safe-deposit boxes embodies the inventions of said 1st and 2d claims of reissue 8783, and give your reasons for any opinion you may express.

A. I understand from the testimony of Butler and Foster that about the year 1865 several nests of pigeon holes like those shown in the exhibit referred to in the question, except that each nest comprised many more pigeon holes, were set up in a series in a safe-deposit vault, the cast-iron fronts of these nests being each in a single piece for all the boxes in any one nest; and I understand that all these pigeon holes in each nest were closed at the rear, either by a separate enclosure for each nest, as in the exhibit, or by the back of the vault, which the rear end of these nests abutted against and were secured to, and I know, being a renter of one of these boxes, that it was absolutely necessary that it should be so closed at the rear in order to prevent employees of the deposit company from removing the contents of the boxes while the doors were locked. Each of these nests was composed of a box of sheet iron, very thin, as shown in the exhibit, and of the thickness testified to by Mr. Butler. All the openings in each single frame were provided with iron doors furnished with proper locks and hinges, and the frames of each nest were riveted to their neighbors by rivets passing through the frames only, while at the same time the frame, as a whole, was provided with two ears for each pigeon hole, projecting backward over the sheet iron, which ears were riveted to the pigeon hole. Some of these ears, as

77 shown in the exhibit, do not go within the pigeon hole, but extend on the outside of the nest, as a whole, and the construction of the frame is such that of necessity it overlaps the body of the nest, as a whole, on the bottom and right-hand side of each nest; consequently the sheet-iron parts of the various nests, if made as shown in this exhibit, could not touch one another, and there must of necessity be two thicknesses of sheet iron, with an interval between them, between the boxes of neighboring nests, so that if the exhibit were provided with only one door instead of four, and the partitions within the nests were removed, making one pigeon hole of it, it would be necessary to have at least two thicknesses of iron, with a space between them, between each neighboring pigeon hole. Further, these nests or holes are so constructed that it would be impossible, without change, to employ for the pigeon holes any iron thicker than that shown in the exhibit; and it is necessary that the pigeon holes should be made of iron, not only because they are intended to contain, and do, so far as I know, always contain, sheet-iron boxes, but also because the partition between the holes must be strong

enough and hard enough to prevent the occupier of one pigeon hole from getting into his neighbor's pigeon hole, either by cutting through the partition with a knife or breaking it away, a dishonest renter having time and opportunities to do so, because the pigeon holes, as I said before, being closed at the rear, so that no clerk or employee can see what is going on within them so long as the renter of the box stands in front of it.

Adjourned till Tuesday, February 27, 1883, at 11 a. m.

78 NEW YORK, *February* 27, 1883—11 a. m.

Present: Mr. F. H. Betts, counsel for complainant; Mr. Clark, ass't U. S. district attorney, for defendant.

Examination of HENRY B. RENWICK continued.

The witness, in continuation, says:

The iron front of this nest of boxes, as a whole, is so constructed that it could not be applied to wooden pigeon holes of sufficient thickness to be of any practicable value without change, and as there is no necessity for protecting the ends of sheet iron the frame might as well and more conveniently have been made in the usual way, namely, by slipping separate door frames within each pigeon hole, such frames having no surface flanges and leaving the ends of the sheet iron exposed between them. It will appear from what I have said, 1st, that the frame of this exhibit is not applicable to wooden pigeon holes; 2d, that the frame does not protect the sheet-iron pigeon hole, because they are in no need of protection; 3d, that the pigeon holes of this exhibit must of necessity be made of some comparatively hard metal, and, 4th, that they must be closed in the rear. I do not think that an examination of this nest of boxes or of the vaults, where a series of such nests, though of much larger size, were arranged so as to form a series of pigeon holes, would furnish any one with the idea that wooden pigeon holes, with their rear ends open and with their front wood ends protected by a metallic frontage, would be a safe and suitable structure for post-office boxes, and I think that the structures claimed in the 1st and 2d claims of reissue 8783 are structures, as a whole, substantially different from the safe-deposit structure, and that it required inventing to produce the structure of Yale; and I am confirmed in this opinion,
79 if any confirmation were needed, by a consideration of the fact of the great utility of Yale's invention, which is proved by its extended use in some form or other in so many of the post offices of the United States.

I may say further on this head, although it is a point of minor importance, that it appears that the nests which were actually put up before the Exhibit "Safe Deposit Company Boxes" were made contained in each nest, according to Mr. Butler's evidence, twenty-four or twenty-six boxes in each nest, instead of four boxes, as shown in the exhibit.

Now, a structure containing twenty-four or twenty-six boxes would

certainly not give an idea of a single frame for each pigeon hole; and although Yale's invention might, perhaps, be infringed by using one frame for more than one pigeon hole, still there is a limit somewhere (although I do not profess to be able to define it exactly) to the number of wooden pigeon holes which could conveniently and economically be covered by a single metallic frame. The idea given by the safe-deposit nest is in this respect more like Defendant's Exhibit Wood-Front Boxes than that furnished by Yale's frame for each pigeon hole; and these points furnish an additional consideration in favor of the opinion that the safe-deposit vault, as a whole, is not and would not have suggested Yale's invention.

Q. 12. Please now examine the Exhibit "Defendant's Exhibit Westerly Model" and the evidence of the witnesses Pendleton and Clarke in reference thereto and compare the same with the invention described in Yale reissue 8783, and state whether you find embodied in the Exhibit "Defendant's Exhibit Westerly Model" the said invention of Yale, and whether, in view of the safe-deposit boxes and the wooden front and door boxes and the Westerly boxes, it required invention to devise the subject-matter of Yale's first and second claims, giving your reasons for any opinions you may express.

80 A. I have examined the exhibit referred to in the question; it is a series of wooden pigeon holes open at the rear, each provided with a separate metallic door hinged to the wood of the boxes; the exhibit shows no metallic frame of any kind, either protecting or not protecting the wood ends, and that is a sufficient reason for stating that the inventions of the first and second claims of the Yale reissue are not represented in this exhibit. The doors of this exhibit might easily be forced off, or a chisel might be set in the ends of the wood so as to pry off that part of the hinge which is secured to the wood.

I have examined the evidence of the witnesses referred to in the question, and I find that they refer to a drawing as well as to the model; I am not able to understand from the evidence exactly what that drawing was or represented, but suppose that it represented such a structure as Defendant's Exhibit "Wood-Front Boxes," except that the continuous and independent sash frame of that exhibit was represented as made of iron with iron doors in it; but the evidence is too vague and ambiguous to enable me to comprehend what the drawing was or to base any opinion on it.

The Westerly model proves that it was not so easy a matter as it might seem to make Yale's invention, because it shows a combination of iron and wood which would not effect the purpose which results from the use of Yale's contrivance.

In my opinion it required invention to make Yale's invention in view of all the other structures referred to in the question, and an examination of the Westerly boxes in connection with the safe-deposit boxes and the wooden door boxes would rather have led him away from than suggested his invention.

Q. 13. Now, please examine the evidence of Frederick H. Moore and John Lewis, witnesses for the defendant, and state whether the

structure there described of the metal frame and doors would
81 be a practical or successful structure embodying the inventions of the first and second claims of the Yale reissue 8783.

A. The Exhibit "Moore Drawing" and the testimony in reference thereto describe a single frame covering the front of many post-office boxes, with several doors applied to this one frame, the boxes being of wood, the frame and doors of metal; it is stated in the testimony that such a frame had never been applied to the wooden pigeon holes, although one frame designed to cover the fronts of many boxes was made of brass, and it is further stated that such frame was fastened to the pigeon holes by screws (19 X int. to Moore), which, taking the testimony as a whole, appears to me to mean that it was intended to secure the frame by screws to the boxes, but that the intention was never carried into practice.

The testimony appears to describe a partially-constructed experimental and abandoned contrivance, not a structure actually built as a whole.

The frame was only a scant one-quarter of an inch wide between the doors at the outside, and could not have been secured practically to the wood by screws as described (see 19th X int. to Moore), and I cannot conceive of any practical manner in which the frame as constructed could be secured to the wood-work; moreover, the frame is so small in cross-section, and so large as a whole, that it would be very difficult to cast on account of the chilling of the metal, and if cast it would probably come out of the sand sprung or out of true plane, even if perfect in other respects. If the frame was out of true it could not be fitted to the boxes; the structure shown in the Moore drawing would, therefore, be an impractical and inefficient mode of construction.

The foregoing is based upon the testimony of Moore and the drawing produced by him. The testimony of Lewis confirms
82 what I have said, because he states in substance, in answers to X ints. 44, 49, and 52, that the single metal front made in accordance with the drawing was separate from the boxes; that it was condemned "on account of its frailability"—it was not strong enough—and that he has no recollection "of seeing anything to it" by which it could be fastened to the pigeon holes.

Q. 14. Please examine the letters patent granted to Asahel Davis, No. 69637, and compare the same with the inventions described in the first and second claims of the Yale reissue 8783, and state whether the said patent of Asahel Davis describes or embodies either of said inventions, and give your reasons for any opinions you may express.

A. The patent of Davis does not describe any door frames of any kind, and that is sufficient reason for stating that it has no bearing on the inventions of Yale and does not embody them. It does describe a chest of drawers, both the chest and the drawers themselves being closed at the rear; the fronts of the drawers are made of iron enclosing a pane of glass, and it is stated in the patent that the drawers may be dispensed with and doors to lock used instead of the drawers, but there is no statement that when doors are to be

used there is to be a door frame, and the drawings show that the partitions which enclose the drawers and form the pigeon holes are not protected at their front ends by metal, and are open to attack.

Q. 15. Please now examine the structures described in the stipulation between the attorneys in this case, dated October 9th, 1882, and referring, first, to street-washer boxes; second, to stop-cock boxes, and, third, to iron safes containing iron pigeon holes, as having been used prior to 1868, and compare all the structures referred to in said stipulation with the inventions referred to in the first and second claims of the Yale reissue 8783, and state
83 whether, in your opinion, any of them embody such invention, giving your reasons for any opinion you may express.

A. The descriptions of all the devices, as a whole, in the stipulation referred to are vague and indefinite. Similar devices to the street-washer boxes and the stop-cock boxes have been for many years used in New York, to my knowledge, although I do not remember any street-washer boxes, such as shown in the exhibit, where the cover or metallic frame was attached to the wood; and the drawing making part of the exhibit shows a contrivance which has no means whereby it could be attached to the wood. I cannot discover from the drawing of the street-washer box definitely whether the iron flange would project over the wood so as merely to cover it and be flush with the outside of the wooden box, or whether it would project beyond it; the latter supposition is the more probable of the two, and in that case the cover or frame could not be applied to washer boxes in series, even if that idea had been suggested; the drawing of the stop-cock box cover, taken in connection with the letter press, shows that it had two lugs projecting downwards on the outside of the wooden box, so that it would not be possible, without changes, to pile up such boxes so as to form a series of pigeon holes.

In practice with both of these boxes the box stands upright and is buried in the ground, the lower end of the box resting in the ground, and the sole use of the iron cover instead of a wooden one is that it may last longer, as it is continually walked over.

There is in these structures no idea of the iron protecting the wood from attack, because there is nothing in the boxes to steal; the doors have a simple latch on them and any one can open them.

I do not think that these boxes would even suggest to an inventor the structure covered by the 1st and 2d claims of the reissue—that is, a tier of pigeon holes located horizontally, with their rear
84 ends open and protected in front by metallic frames and doors—and I am of the opinion that these boxes do not embody those inventions.

The stipulation as to the iron pigeon holes in an iron safe, being unaccompanied by any drawing and being in few words, is so vague that I cannot exactly understand what the structure is, nor whether the iron frame and door was common to many pigeon holes, or whether there was a separate frame and door for each pigeon hole, or whether the iron frame projected over the edges of the nest of pigeon holes as it does on the bottom and right-hand side of the

Exhibit Safe-Deposit Boxes. It does, however, appear that the pigeon holes were made of iron and it does not appear whether the wood lining was protected by the frame or by the door, probably, I should say, by the latter. These pigeon holes must have been closed at the ends, and, even if the doors and fronts were like Yale's, would have tended to show that it was not thought possible to make a secure pigeon hole with the advantages of a wooden interior, so that the papers should not be soiled or rusted, of wood only, but that the only plan was to line iron pigeon holes with wood. The description of the structure is too vague to base a certain opinion upon, unless based upon the last-named consideration and the fact, if it be one, that the pigeon holes of the stipulation were closed at the rear. I am therefore of the opinion that this stipulation does not describe Yale's invention in so clear a manner as to enable a competent mechanic to make Yale's structure, and that in view of the fact of the pigeon holes being made of iron lined with wood it would not suggest that such a construction as Yale's structure could be made.

Recess for half hour.

Q. 16. Were you employed as an expert on behalf of the complainant in the suit of the Yale Lock Manufacturing Company
85 against the Scoville Manufacturing Company, the opinion of Judge Shipman in which case has been introduced in evidence herein?

A. I was.

Q. 17. Are you familiar with the evidence and exhibits introduced in said suit?

A. I was with all those concerning which I testified, and can probably recollect them now.

Q. 18. Was there introduced in evidence in said Scoville case and proved without contradiction that there existed prior to the date of Yale's original application a metallic front and door for a pigeon hole in an iron safe?

A. Yes; as far as I remember (my memory being refreshed by an examination of my own testimony in the case) there was.

Q. 19. Are you familiar with the form of post-office boxes and their combination with each other, which were held by Judge Shipman to be an infringement of the first and second claims of the reissue 8783 in said suit?

A. I am.

Q. 20. The expert witness for the defendant, William C. Hicks, in answer to the 11th, 12th, and 13th questions, expresses the opinion that a construction of the patent Yale reissue 8783, assumed by him, which would include the Scoville Company's boxes, would also include the said safe-deposit company's boxes. Please state whether you agree or disagree with Mr. Hicks in his expression of opinion, and give your reasons.

A. I disagree with him, and, as I have already given my reasons why the safe-deposit company's boxes would not be included in claims of Yale's reissue 8783, do not deem it necessary to repeat them, and as far as I understand Mr. Hicks' construction of the

claims they are the same as my own, unless in answer to question 6 he means to say that the claims are not limited to door frames
86 which protect the front of the boxes, but include frames (as the first claim of the original patent might be construed to do) which do not protect the wood ends.

Q. 21. Said Hicks also states that in his opinion the post-office boxes put up in the New York post office, of which Defendant James' Exhibits Boxes Nos. 1 and 2 are a representation, in his opinion differ substantially from the Yale original patent No. 119,212, and, among other reasons for said opinion, alleges that the metallic fronts of the defendant's boxes have "no frames such as are described in the original patent, which enter within the pigeon hole." Please state whether you agree or disagree with him in that opinion, and state also to what extent the method of connecting the metallic frames of the defendant's boxes with the wooden pigeon holes and with each other accomplishes the results of the original patent of Yale.

A. I disagree with Mr. Hicks in his opinion, because the frames of the defendant's boxes have each two ears which enter within the pigeon holes, these ears performing the duties of the frame, and being an inferior equivalent of a continuous frame, which equivalent is described, as I have before stated, in the original patent of Yale. The Yale frames are connected to the wood-work and to each other by the same rivet, said rivet passing through the ears of adjoining boxes and through the separating partition so that the rivets not only secure the frames to the wood-work, but also secure adjoining frames together.

In the defendant's boxes the screw bolts hold the frames in place by the joint action of their heads and their shanks, the latter passing through notches in the former, and the same shank enters into notches in two adjoining boxes, and has a head large enough to aid in holding two adjoining boxes in place, and consequently these fastenings are like Yales in these facts, namely, that the same fastening holds two adjoining boxes in place, and that when that fastening is removed two frames are rendered insecure; but the
87 fastenings in defendant's boxes are different from Yale's in the fact that they do not render one frame more secure by reason of its attachment to its neighbor, and therefore it would appear that the fastenings of defendant's boxes are about as near an approach as they possibly can be without being substantially the same as Yale's.

HENRY B. RENWICK.

Sworn to before me.

JOSEPH GUTMAN, JR.,
Examiner.

Adjourned to February 28, 1883, at 11 a. m.

NEW YORK, *February* 28, 1883—11 a. m.

Adjourned to March 1, 1883, at 11 a. m.

JOSEPH GUTMAN, JR.,
Examiner.

NEW YORK, *March 1st*, 1883—11 a. m.

Present: Counsel as before.

Cross-examination of the witness HIRAM A. TYLER continued:

X Q. 184. Mr. Tyler, you stated that the company moved down to Stamford in 1869. What company was that?

A. The Yale Lock.

X Q. 185. What was the name of the company that, prior to the removal, did business in Shelburne Falls, and to which you have referred?

A. Yale & Winn, I think it was.

88 X Q. 186. That was the company you say made the doors and frames for the Boston post office?

A. Yes, sir.

X Q. 187. In your answer to Q. 106 you say that over six thousand separate metal fronts were made for the Boston office and in your answer to Q. 111 you say that Mr. Yale made a metal door and front, single, with reference to furnishing metal fronts for the Boston post-office boxes. How do you reconcile the two answers?

A. Well, he made a single front for to put in sections. There was no double front—that is, to make it clear, he made a front to put in as many as he chose—one or ten thousand.

X Q. 188. In your last answer what did you mean by the word "front?"

A. A single door and single frame.

X Q. 189. In your answer to Q. 111, where you say that Yale made a metal door and front, single, do you mean that he made only one such door and front?

A. He made several thousand.

X Q. 190. Were they all alike, exactly?

A. I won't be positive whether we made twos and threes. There were three sizes—one, two, and three.

X Q. 191. Were any number ones sent to Boston?

A. I won't say.

X Q. 192. Were any number twos?

A. I won't say.

X Q. 193. Were any number threes?

A. There were.

X Q. 94. How many, about?

A. We had two times fitting of them up, and it is a hard matter to tell. I should think about, to the best of my memory, six or seven thousand.

X Q. 195. About what was the size of number threes?

89 A. I don't know that we sent any number threes. The size was about six inches by ten. That was a drawer front.

X Q. 196. How did numbers 1, 2, and 3 differ in other respects than size, if at all?

A. The ones and twos had a door and a frame, and the threes was a front to go on a drawer, without a frame.

X Q. 197. Did the Yale & Winn Company ever make any number threes?

A. I answered that question by saying that they had some trouble about that time, and whether they had dissolved before or just after I can't tell.

X Q. 198. Were any number threes made before the concern called the Yale Lock Manufacturing Company began to make them at Stamford?

A. I can't say positive, and won't answer; I could if I was at home.

X Q. 199. How did numbers one and two differ from each other in other respects than size, if at all?

A. They differed a little; the flowering was a little different, I think, around the key-hole, and the frame was a little different shape.

X Q. 200. Did they both have a bead upon the door, making a sunk panel where the nose of the lock came through?

A. I think they did, but I can't describe it to you.

X Q. 201. Will you swear positively that they both did have such a bead?

A. No; I won't do it as regards No. twos, because I do not distinctly remember. They have been continually altering the shape and the beading and the style and flowering since the commencement.

X Q. 202. Will you swear that either No. 1 or No. 3 had a beading, as made for the Boston post office, which showed a sunk panel around the nose of the lock?

A. The No. 1 did.

90 X Q. 203. About what was the size of No. 1 and No. 2?

A. I must state that to the best of my ability; it is a hard matter. The No. 1, as nigh as I can think, $3\frac{1}{4}$ inches—the whole width of the frame—and about $4\frac{3}{4}$ or 5 inches long. I ain't missed it much. The No. 2 was designed to take, let's see, I wouldn't be positive it took so many No. 1's to make the spacing come out even for No. 2's in the sections; say about a third larger in width and near the same in length; that's the best way to put it as nigh as I can remember.

X Q. 204. You have stated that the door and front which Yale made for the Boston office was narrower and longer than the one you say you made for him in 1864. Did you mean that Nos. 1, 2, and 3 were narrower and longer, all of them?

A. No.

X Q. 205. You have stated that a further difference was that the door had an ornament around the nose of the lock; which door was that, the one you made?

A. The one I made in '64 was perfectly plain.

X Q. 206. Are you positive that the doors and frame sent to the Boston office had any ornament around the nose of the lock?

A. I think they did; that's the way I shall answer that. I won't be positive, but I think it did.

X Q. 207. Look at the door and frame I show you, and state if you recognize it.

A. Perfectly well; no one made that lock but me.

X Q. 208. Was that one of the doors and frames that were sent to Boston?

A. I should say it was.

Door and frame marked "Exhibit Boston Front, J. G., Jr., Ex'r., 1st March, 1883."

91 X Q. 209. Do you recollect of Mr. Yale or of any company with which he was associated doing any work for any post office prior to what you say was done for the Boston office?

A. I won't say certain whether we made two or three little offices before we made that or not.

X Q. 210. Did you furnish any locks for any post office at any time prior to this business?

A. Do you call these boxes in the streets post-office boxes where you put your mail?

X Q. 211. Did Mr. Yale make any lamp-post boxes prior to what you say was done for the Boston post office?

A. I couldn't say as to that, but he made thousands of locks for that purpose during the years 1860 and '61, as I was overhauling of them and repairing of them in Philadelphia, at the time of the first battle of Bull Run.

X Q. 212. Did Mr. Yale make any other such locks at any other time than that?

A. I couldn't say.

X Q. 213. Did he ever make any mail-bag locks?

A. Not as I know of; having heard some conversation in the room, I remember now he made some lobster-claw locks for mail bags.

X Q. 214. When were those lobster-claw locks made, about?

A. That's away back in '56 or '7, the best that I can remember.

X Q. 215. Do you remember any other post-office business done by Mr. Yale prior to this you have spoken of?

A. I do not.

X Q. 216. Look at "Defendant's Exhibit Westerly Model" and state whether Mr. Yale's company made the locks thereon?

A. They did; I made them for him.

X Q. 217. Were you employed by Yale in 1867?

A. I were.

92 X Q. 218. Do you recollect a lot of such locks as are in Exhibit Westerly Model being furnished in that year to anybody at Westerly, Rhode Island, for the post office there?

A. I won't say that; I made the locks; don't know where they went to; I didn't sell.

X Q. 219. Do you recollect seeing at Shelburne Falls in that year an iron door like one of those in Exhibit "Westerly Model?"

A. I seen the doors, but I won't—I can't—say as to the year; I have seen plenty of the doors; from their style you might say number "ought."

X Q. 220. Do you recollect furnishing quite a number of locks for that kind of door?

A. Yes; I have made a good many, first and last.

X Q. 221. At the time that you made the pattern represented by "Exhibit Yale 1864 Pattern" and the casting from it did Mr. Yale tell you what sort of a lock he wanted put on it?

A. He did.

X Q. 222. What did he say on that subject?

A. Why, he made all the designs and I executed them; he told me what to do.

X Q. 223. Did he make a drawing of the lock?

A. No drawing ever made; he told me what to take and how to finish it; I expressed it to you; I cut the guts out of a drawer lock such as is shown in model Exhibit "Westerly Model;" there was a plate attached to it and that was soldered on like the lock on "Exhibit 1864 Yale Metal Front."

X Q. 224. Did you in 1864 make a lock the same as the lock on "Exhibit 1864 Yale Metal Front?"

A. I made only one; I made one.

X Q. 225. A witness in this case, Peleg Clarke, Jr., has testified that in July, 1867, he took a cast-iron door like those shown in "Exhibit Westerly Model," went with it to Shelburne Falls to find a suitable lock; that he saw Mr. Yale, showed him the door, and told him what he wanted; that Yale said "he had nothing
93 in the shape of locks and hadn't made anything that was applicable to that door;" and the witness further stated that Yale showed him some cupboard locks and some drawer locks, and that he, witness, selected the drawer locks for those doors; if Mr. Yale said that to Mr. Clarke if was true, wasn't it?

Objected to as not proper cross-examination or responsive to the direct, and also because it appears that the person alleged to have made the remarks in question was not the Linus Yale, Jr., the inventor of the metallic front post-office boxes, but a young man alleged to be his son.

A. Well, I couldn't answer no such question as that; couldn't answer no such question.

X Q. 226. Why; don't you understand it?

A. Well, I don't know as I do understand that question.

X Q. 227. Is your memory refreshed any further now as to the post-office work done by Mr. Yale prior to the Boston business?

A. We made two or three offices—little bits of ones; whether they were before or after I would not try to say; they were three or four small ones.

X Q. 228. What offices were they?

A. I can't tell you where they were.

X Q. 229. The entry in your time book which you say you recollect to have seen for the first time about a year ago says "new post-office model;" you say you don't recollect making that entry; how can you be positive as to what model was referred to?

A. Well, I refer to that, for I only made one and I remember that distinctly.

X Q. 230. The question is how you know that entry relates to a door and frame rather than to a mail box or a letter-bag lock, or any of the other things Mr. Yale made for post offices;
94 you had forgotten a minute ago that Mr. Yale had ever made any lobster-claw locks for mail bags; can you swear positively that the thing to which the entry in your time book relates hasn't passed from your mind completely?

A. I would answer in this way. I cannot go back on my entry in the time book, and I know I made such a door and frame about that time; I remember it independently of the entry.

X Q. 231. Could you say positively that your "about that time" doesn't cover a space of four or five years?

A. Oh, yes, sir.

X Q. 232. Are you as positive about that as that the door made for the Boston office had an ornament round the nose of the lock?

A. I didn't say I was positive it had an ornament, but I thought it did.

X Q. 233. I will now show you the whole of the letter, the signature of which you identified as Mr. Yale's the other day, and state whether the handwriting of the whole of it is Mr. Yale's. I refer to the paper marked for identification "Defendant's Exhibit Yale's Signature."

Objected to as not cross-examination.

A. Well, I should say that was his letter.

Letter offered in evidence and marked "Defendant's Exhibit Yale-Burt Letter, J. G., Jr., March 1, 1883."

Objected to as incompetent.

X Q. 234. This letter reads as follows:

83 BEEKMAN ST., NEW YORK, *March* 17, '68.

Mr. W. L. Burt, P. M, Boston, Mass.

95 DEAR SIR: Yours of the 13th inst. has been forwarded to me, and I would reply: I presume the sup't will send you another door made by hand, though they cost at least three prices, and we will avoid it if possible. We have done a great deal of experimenting on this thing already, as you must be aware, and that brings me to the subject of your second paragraph. I do not anticipate trouble about the Bramble pat., and only wish to say I claim only the manner of fastening in the frame to the wood-work, which I have no doubt you will allow is mine. I had already consulted my patent solicitor, H. B. Renwick, of this city, as to the feasibility of patenting the manner of fastening in simply, and am informed it can undoubtedly be patented. The matter of a metal door with glass, and locked, I, of course, have no claim to. You sent me such a door to put locks on, so you are ahead of me at least on that point. I do not write this to interfere at all with your application, but

must insist on my claim to the manner of fastening to the shelves and partitions. Hoping nothing of the above may be misconstrued, I am very respectfully,

LINUS YALE, JR.

If your recollection is correct that a door and frame, of which "Exhibit 1864 Yale Metal Front" is a model, was made in 1864, can you understand why Mr. Yale should have written Postmaster Burt in 1868 these words: "The matter of a metal door with glass, and locked, I, of course, have no claim to?"

Objected to as not cross-examination, and also because the understanding of the witness in regard to the supposed letter is immaterial.

A. I couldn't understand it unless he let the time go by.

96 X Q. 235. Can you understand how he should have written these words, "You sent me such a door to put locks on, so you are ahead of me at least on that point?"

Same objection.

A. Well, we had no suitable locks for that door (referring to 1864 door); that is what we call an idea not carried out.

X Q. 236. You mean to state that that 1864 door and frame was an abandoned experiment?

A. Certainly; it must have been abandoned, as I never seen it. It was never applied to wood. I never seen it more than two or three times after it was made.

Redirect by Mr. BETTS:

R. D. Q. 237. Did you ever make for Mr. Yale any other model or pattern for post-office work, except the model front of 1864?

Same objection as taken on questions in direct examination, and, further, that this is not proper redirect examination.

A. I don't recollect of doing it; I might have done it, but don't recollect.

R. D. Q. 238. Is there anything that you can recollect that you ever made that your entry in your time book of November 8, 1864, could have reference to, except the pattern of the metal-front post-office box?

Same objections.

A. I think not.

R. D. Q. 239. When the metal fronts and doors were made for the Boston post office, do you remember whether, before they were sent on, they were fitted to any wooden pigeon holes?

Same objections.

97 A. From the best of my recollection, we made a cherry box to try them in, to gauge them.

R. D. Q. 240. Describe this cherry box.

Same objections.

A. Well, it was nothing more than a tester, which was made in 4 or 6 compartments to try them in to see how they would fit, made of wood. I think it was cherry wood to make it last.

R. D. Q. 241. What fitting was done on these fronts by putting them in this wooden box with the compartments?

Same objections.

A. To see the frame fitted the wood-work, and not crowd or too small. These have to be edged (pointing to the edges of the outside flange) to try them in to see how they will fit.

R. D. Q. 242. Why did they have to be edged in, fitting them in these wooden compartments?

Same objections.

A. To get them the right size.

R. D. Q. 243. Right size for what?

Same objections.

A. For the wood-work.

R. D. Q. 244. How were they fitted so as to be the right size for the wood-work?

Same objections.

A. They were edged on an edging machine.

R. D. Q. 245. What was the test of the right size that you speak of?

Same objections.

A. So that each frame would come exactly in the centre of the wood-work.

98 R. D. Q. 246. What was the object of that?

Same objections.

A. To make it look well and show a metal front.

R. D. Q. 247. Were all the frames fitted in this way to wooden compartments before being delivered?

Same objections.

A. They all have to be.

R. D. Q. 248. Was that in fact done?

Same objections.

A. They were made to gauges.

R. D. Q. 249. I want to know whether they were all fitted onto the wood-work; I mean those that were sent to Boston in 1868?

Same objections.

A. Well, that I can't tell you; we try a few to see if we are right, and then we work a spell and try again.

R. D. Q. 250. In the years 1865, 1866, 1867, and 1868 were you doing any experimenting for Mr. Yale?

Same objections.

A. A very little.

R. D. Q. 251. What were you doing then?

Same objections.

A. I had taken all the small lock work on contract; I had all that I could attend to.

R. D. Q. 252. You spoke of the Yale company having furnished two or three small offices, but whether before or after the Boston post office you could not say?

Same objections.

99 A. Somewheres near that time; I could not say.

R. D. Q. 253. Were the goods that they furnished to those small offices about that time metal doors and frames like the Boston post office, or with metal doors alone, like the "Exhibit Westerly Model?"

Same objections.

A. We made them offices complete—wood-work and all; we made doors and frames and pigeon holes all complete. I can't say which, whether before or after.

R. D. Q. 254. Are the locks on the doors of the Westerly model drawer locks or post-office-box locks?

Same objections.

A. They are drawer locks.

R. D. Q. 255. Did you know the father of Linus Yale, Jr., the inventor of the metallic-front post-office boxes you have described?

Same objections.

A. I did—well.

R. D. Q. 256. What was his name?

A. Linus Yale.

R. D. Q. 257. When did he die?

A. He died in 1858 or 1859; I can't be positive.

R. D. Q. 258. Where?

Same objections.

A. In Newport, N. Y.

R. D. Q. 259. Was that before the Yale company moved to Shelburne Falls?

Same objections.

A. It was.

100 R. D. Q. 260. Was the father of Linus Yale, who made metallic-front post-office boxes, ever at the place of business in Shelburne Falls?

Same objections.

A. He died before they moved there.

R. D. Q. 261. How old a man was Linus Yale, Jr., when he died in 1868?

Same objections.

A. He was between 2 and 3 years older than I, and I am 59; that would make him about 48.

R. D. Q. 262. Did he have any sons who were with him in the business before his death, or who were employed at the works?

Same objections.

A. He did.

R. D. Q. 263. Give their full names.

Same objections.

A. John B. Yale. He was book-keeper. His father gave him stock. He had an interest in the concern.

R. D. Q. 264. Was John B. his real name?

Same objections.

A. He altered his middle name when he was quite a boy. It used to be John L., but he altered it to B., and writes it so to-day.

R. D. Q. 265. What did the L stand for?

Same objections.

A. The L stood for Livers, and the B stood for Brooks, his mother's maiden name.

101 R. D. Q. 266. You spoke of the trip that you made to the Adirondacks with Linus Yale, Jr., in 1863. Did you ever go there again with him?

Same objections.

A. I never did. I could specify the time explicitly, but I don't want to do it. In connection with that visit I had some private troubles which do not concern this case.

R. D. Q. 267. You spoke of Yale's drawing that he showed you on this Adirondack trip as having been in perspective. Was he a good draughtsman?

Same objections.

A. He was the best I ever saw.

R. D. Q. 268. Are you able to draw in perspective?

Same objections.

A. I am not; don't pretend to make any kind of drawings.

Recross:

R. X Q. 269. What other children had Linus Hale, Jr.?

A. He had a daughter and another son. The daughter is in Europe, and the other son is somewhere in Ohio—I don't know where. Madeline Yale was the daughter's name, and Julian was the son's name.

R. X Q. 270. How old were these children at the time of Mr. Yale's death, about?

A. John must have been along between 20 and 25 somewhere, and the daughter at the time of his death was married. I can't say about her age; about 21, probably, and the other boy was a couple of years younger, probably about 18.

Complainant's counsel offers in evidence exhibit marked
102 "Exhibit Boston Fronts, J. G., Jr., examiner, March, 1883."

H. A. TYLER.

Sworn to before me—

JOSEPH GUTMAN, JR., *Examiner.*

Adjourned to Tuesday, March 6, 1883, at 11 a. m.

NEW YORK, *March* 6, 1883, at 11 a. m.

Present: Frederic H. Betts, Esq., counsel for complainant; Mr. Clark, for defendant.

Cross-examination of Mr. RENWICK:

X Q. 22. Mr. Renwick, with reference to the reissued patent in suit and the original thereof, please state whether or not, in your opinion, they are patents for the same invention; answer catagorically.

A. I understand that they are patents for the same invention, because they describe the same structure, although, as I have said before, the claims are different.

X Q. 23. Now, with regard to the original patent and the reissued patent in suit as issued—that is, before disclaimer was filed—please state catagorically whether or not, in your opinion, they are patents for the same invention.

A. As I understand it, the words "same invention" in the question of reissue refer to the thing as a whole which was invented, and if the reissue describes the same thing that was described in
103 the original patent without adding thereto, then the reissue is for the same invention as the original, although the claims may be different. I have lately seen Judge Shipman's opinion and the disclaimer, and understand that he held the fourth and fifth claims to be void because they referred to a single box and not to a series, and therefore were outside of the original invention, which was for a series of boxes and frames. According to Judge Shipman's opinion the reissue, while the fourth and fifth claims were in it, was for the original invention, and also for something more than the original invention, namely, the single boxes and frame referred to in the fourth and fifth claims.

X Q. 24. I ask your opinion, Mr. Renwick, whether the reissued patent as issued and the original patent are patents for the same invention?

A. My opinion in this respect is the same as I have already stated Judge Shipman's to be.

X Q. 25. Please state catagorically whether or not, in your opinion, the reissued patent in suit is for the same invention (nothing more or less) as the original patent.

A. As there is no danger now of misconception in my answer, I say they are for the same invention.

X Q. 26. In coming to that opinion you first made up your mind what invention the original patent was for, did you not?

A. That statement does not express clearly the way I go to work to make up my mind. I first find out what is the structure or the machine described in the original patent, and then examine the reissue, and if I find that it describes the same structure, and that the claims in the reissue are based on combinations which were shown and described or shown or described in the original patent, then I say that the reissue is for the same invention as the original patent.

X Q. 27. Is not this structure described in the original of the patent in suit "the combination of a post-office box or pigeon
104 hole open at the rear, with a metallic frame and door to protect the front end of it?"

A. I understand your question to refer to the original Yale patent, and answer no; the original patent refers throughout to a series of boxes and frames, and does not state anywhere that a single box by itself is useful or of Yale's invention.

X Q. 28. You were examined as a witness for the Yale Lock Company in the case against the Scoville Company in Connecticut in March, 1880, before the disclaimer was filed, were you not?

A. Yes.

X Q. 29. You were asked this question, were you not, "Please compare reissue No. 8783 with the original letters patent No. 119,112, printed at pages 36–88 of defendant's record, and state whether, in your opinion, said reissue describes the same invention or inventions as said original patent?"

A. I was.

X Q. 30. You answered thus, did you not, before the disclaimer was filed, "There is described in the original patent 119,112, precisely the same structure that is described in reissue 8783; I have often seen the drawings of the original patent; they are identical with those of the reissue; the invention described in the reissue and the original are the same?"

A. I have no doubt that I did, as the quotation in the question is from the record in the Scoville case.

X Q. 31. In finding out what was the structure or the machine described in the original of the patent in suit in this process of making up your mind whether the reissue was for the same invention, what did you take into consideration?

A. I took into consideration the description and drawings in the original patent, and then examined the reissue to see if it described and represented the same structure.

105 X Q. 32. Did you consider anything else than the description and drawings in the original patent in finding out what was the structure or machine described therein?

A. No; I did not.

X Q. 33. You have stated that you drew the reissue; did you not also draw the application of Linus Yale, Jr., for the patent which, when issued, was No. 119,212?

A. I feel very certain, although not absolutely so, that I drew the descriptive portion of the original application, which was amended during its passage through the Patent Office, and, as I remember, not

by me; I do not think that I drew the claims as they stand in the original patent referred to in the question.

X Q. 34. I show you a certified copy of the file wrapper and contents in the matter of patent 119,212; please look at it and state which of the papers therein you drew.

A. I am not certain whether I drew the power of attorney or not; I mean the power of attorney given by Linus Yale, Jr., himself; I feel reasonably certain that the description and specification signed by Linus Yale, Jr., himself—that is, ignoring the erasures and interlineations in red—was drawn by me; I am not certain about the oath taken by Linus Yale, Jr., before Arthur Maxwell; my impression, although I am not certain, is that it was not drawn by me; none of the other papers in the file were drawn by me.

X Q. 35. The three papers in the file which you have specially named are the only ones of date prior to the time of Yale's death, and the only ones which he personally executed or signed?

A. I don't remember the date of Yale's death, although I know it was in the autumn or winter of 1868; the three papers referred to in the question are the only ones in the file signed or executed by Yale.

106 Said three papers in the certified copy of file wrapper and contents, namely, petition and power of attorney to Mr. Renwick, the description signed Linus Yale, Jr., and the oath taken by Linus Yale, Jr., are offered in evidence and marked "Defendant's Exhibit Yale's Application."

Complainant objects to the offer of the three papers by themselves without the rest of the certified file and contents, because they are all certified together and not separately, and as incompetent separately; and complainant will therefore offer in evidence the whole certified copy of the file wrapper and contents.

X Q. 36. Mr. Yale employed you as his agent to prepare the application for the patent, did he not?

A. I have no doubt that he did.

X Q. 37. And you did prepare this description under his instruction and description of what his invention was?

A. I have no doubt, as I have before said, that I drew the description and specification, but whether under Yale's instruction and description of what his invention was I can't say, because I don't recollect.

X Q. 38. The claims of the application signed by Linus Yale, Jr., and sworn to by him were as follows, were they not?

"But I do claim as my invention—

"First. The combination of several box frames with each other and with pigeon holes, as described, by means of rivets passing through the frames and the wood-work, the combination being substantially as described.

"Second. I claim the above combination, in combination with the flanges, making part of the frames and protecting and enclosing the exterior of the wood-work, substantially as described.

107 "Third. I claim a pin lock, in combination with a spring bolt upon a door by means of a contrivance, substantially such as described, so that the bolt may be moved when the lock is actuated by the key or may be disconnected from the lock."

A. They were.

X Q. 39. Please state whether or not the description in Yale's application of the combinations claimed in the first and second claims thereof is substantially the same as the description in patent 119,212 of the combinations claimed in the first and second claims thereof.

A. Yes.

X Q. 40. Please state whether or not the arrangement of safe-deposit boxes in the vaults of the New York Safe-Deposit Company in 1865, as described in defendant's proofs (which you say you have read and understand), is the combination of two or more metallic frames and doors and locks with pigeon holes, said frames having flanges which protect and enclose wholly or in part the front edges of said pigeon holes. Give reasons for your answer.

A. In the safe-deposit vaults referred to in the question there were nests of wrought-iron pigeon holes closed at the rear, which nests were arranged in a series; each nest of numerous pigeon holes was provided with a single cast-iron frame, one frame with numerous apertures in it, and these apertures were provided with doors, one for each pigeon hole; these doors were made of iron and provided with locks, and the bars which made up the frame and surrounded the apertures, in which the doors were placed, covered the front ends of the sheet-iron pigeon hole. I can't give any reasons for this opinion, because I have merely described generally and not particularly the thing which is proved by the testimony. The safe-deposit vaults when completed had in them several metallic frames with numerous apertures in them, as I have described, and iron
108 doors provided with locks for each aperture, and these were combined with pigeon holes made of sheet iron closed at the rear, and the bars of the frame covered the front edge of the pigeon hole.

X Q. 41. I don't know whether you have answered my question or not. Is the arrangement of the safe-deposit boxes the combination described in my last question?

A. I intended to answer your question and give a little less vague characterization of the arrangement than is stated in the question. The question certainly states the truth, but by no means the whole truth, and the word "enclosed" in the question is entirely unwarranted by the testimony as to the safe-deposit boxes, and the word "protect" of the question conveys a false idea.

X Q. 42. Please state whether or not the arrangement of boxes in the New York post office as represented by the model "Defendant James' Exhibit Box No. 1" is the combination of two or more metallic frames and doors and locks with pigeon holes, said frames having flanges which protect and enclose wholly or in part the front edges of said pigeon holes. Give reasons for your answer.

A. Please tell me what you mean by the word "enclosed" in that question. I do not understand that the iron frames enclose the pigeon holes.

X Q. 43. Please answer my question as you understand it.

A. I don't understand the word "enclosed" either as applied to the patent or to the exhibit.

X Q. 44. What don't you understand about it?

A. I don't understand what meaning you intend to attach to the word "enclosed," because neither in the patent nor in the exhibit do the flanges enclose the pigeon holes.

X Q. 45. The question did not refer you to any patent; it asked you in substance this, Do the words "the combination of two or more metallic doors and frames and locks with pigeon holes,
109 said frames having flanges which protect and enclose wholly or in part the front edges of said pigeon holes," correctly and substantially describe the arrangement of post-office boxes in the New York post office as represented by Exhibit No. 1?

A. No; they describe them very vaguely and incorrectly. The pigeon holes in the exhibit are in a series and made of wood and open in the rear; the frames have flanges which protect the wood edges, but do not enclose the front edges of the pigeon holes, as I understand the word "enclosed." The exhibit shows several metallic door frames—a series of them—one frame for each pigeon hole, and in the exhibit there is combined with each door frame a metallic door and lock. These parts are all combined together in the exhibit, and the frames are secured to the wood-work by proper bolts.

X Q. 46. Please state whether the incorrectness of the description quoted in my last question as applied to boxes represented by Exhibit No. 1 is, in your opinion, as a mechanical expert, substantial and material.

A. Yes; and especially so when it appears by comparison with X Q. No. 40, which is in the same language and refers to safe-deposit boxes, that the vagueness of the language was purposely adopted with the idea of obtaining an unguarded answer from the witness, from which the inference could be drawn that he thought the safe-deposit boxes were the same structure substantially as the New York post-office boxes.

X Q. 47. I understand you to mean that the words of description quoted in X Q. 45 apply to the safe-deposit boxes with substantial correctness, but that the incorrectness of those words of description as applied to the New York post-office boxes as represented by Exhibit No. 1 is substantial and material. Do you mean that?

A. No.

X Q. 48. What do you mean?

A. I mean that the words quoted in cross-question 45 and
110 the words of cross-question 40 do not give a substantially correct description of either the New York post-office boxes or the safe-deposit boxes, and this incorrectness becomes more apparent when the issues in this case are taken into consideration.

X Q. 49. Do the words quoted in cross-question 45 correctly and substantially describe the arrangement of other post-office boxes in the New York post office, as represented by the model "Defendant James' Exhibit Boxes No. 2?"

A. No; because they leave out material facts in the construction of the parts, state incorrectly the operation of one of the parts, and leave out the distinguishing characteristics of the structure as a whole.

X Q. 50. Now, look at the 1872 reissue of the Yale patent No. 4963, and state whether the New York post-office boxes, as represented either by Exhibit No. 1 or Exhibit No 2 infringe the second claim of that patent, the words of which are the words quoted in cross-question 45.

A. The flanges of the reissue of 1872 are the flanges which protect the outside of the wood-work—that is, overlap the wood-work; the word "enclosed" is not used in the description, and the flanges *a a* do not enclose the pigeon holes. I should construe the claim by leaving out the words "and enclose" as a clerical error, or hold that the word "enclosed" was synonymous with the word "protect" and had not its usual meaning, and under that construction would say that the boxes, Exhibits Nos. 1 and 2, infringe that second claim, the meaning of that claim, of course, depending upon the descriptive part of the specification.

X Q. 51. Consider the arrangement of the safe-deposit boxes and state whether, as arranged, those boxes infringe the second claim of the 1872 reissue No. 4963.

111 A. I am not prepared to say with certainty whether they would or would not; the words of the claim do not limit it to wooden pigeon holes, although only such pigeon holes are described in the patent, and it is uncertain whether the claim would or would not cover, as an element of the invention, a single iron frame which covered several pigeon holes, and which contained several doors. In my opinion, the claim might be construed to cover or not to cover the claim of the safe-deposit boxes.

Adjourned to March 8, 1883, at 11 a. m.

NEW YORK, *March* 8, 1883, at 11 a. m.

Present: Frederic H. Betts, Esq., counsel for complainant; Mr. Clark, assistant U. S. district attorney, for defendant.

Cross-examination of the witness RENWICK continued by Mr. CLARK:

X Q. 52. Mr. Renwick, you stated that in making up your mind as to whether the reissue in this suit was for the same invention as the original patent, you considered nothing else than the description and drawings in the original patent and compared them with the reissue. Won't you point out specifically what parts of the original patent you regarded as coming under the heads, description and drawings?

A. From the words "figure 1" to the words "what I claim," with the three figures of drawings.

X Q. 53. Did you consider these words which come within
112 the part which you have pointed out, "This invention relates to an improvement in the construction of the fronts of post-office boxes, and consists in making said fronts, including the doors and

box frames, of metal, and in securing the frames to the wooden pigeon holes by rivets, connecting the frames with each other, top, bottom and sides?"

A. I dare say that I did, although the quotation is not a part of the description, and if I did consider it I paid no special attention to it.

X Q. 54. I understand you to mean that the words I quoted in the last question did not form any part of the description which, in answer to cross-question 31, you say you took into consideration?

A. I must have read the words quoted, but paid no attention to them in deciding whether the reissue was for the same invention as the original.

X Q. 55. Will you please to examine the original patent carefully and state whether or not there is any inconsistency when the drawings, the statement of what the invention consists of, and the description following that statement, and the claims are considered together.

A. I don't see any, although the first part of the statement of the invention is broader than any of the claims, and is silent on one point which is fully stated in the specification, namely, that the flanges protect the outer edges of the wood-work.

HENRY B. RENWICK.

Sworn to before me—

JOSEPH GUTMAN, JR., *Examiner.*

Complainant offers in evidence the whole of the certified copy of the file wrapper and contents of the Yale original application
113 for patent, dated September 19th, 1871, No. 119,212. It is marked "Complainant's Exhibit Yale Original File."

Defendant's counsel objects as too broad, incompetent, immaterial, and not proper in rebuttal, and conditionally upon the ruling upon these objections, as explanatory of the part of the Yale original file offered by the complainant, offers in evidence certified copy of the file wrapper and contents in the matter of the interference between Burt and Yale, and it is marked "Defendant's Exhibit Burt Yale Interference."

Adjourned to Wednesday, 14th March, 1883, at 11 a. m.

NEW YORK, *March* 14, 1883—12.30 p. m.

Present: Counsel as before.

THOMAS F. KEATING, a witness of lawful age, produced on the part of the complainant, having been by me first duly cautioned and sworn to testify the truth, the whole truth, and nothing but the truth in the matter in controversy herein, and being examined by Mr. Betts, of counsel for complainant, says:

Q. 1. What is your name, age, residence, and occupation?

A. My name is Thomas F. Keating; I am 37 years old; I reside at the city of New York; I am manager of the New York office of the Yale Lock Manufacturing Company.

Q. 2. How long have you been in that position?

A. About five years.

Q. 3. When were you first connected with the Yale Lock Manufacturing Company, and in what capacity?

114 A. In 1869 I was travelling salesman.

Q. 4. Please state how you came to be employed by them.

A. I was acquainted with some of the men at the Yale Lock Company's factory, and in visiting them there my attention was called to the goods that they were then manufacturing, among which was their post-office lock box, and it struck me as something that would find a ready market. I visited the then treasurer, Mr. John B. Yale, and asked him for a position to sell and introduce their goods. We were unable to make any definite arrangement as to salary, so I arranged for an experimental trip. I went a trip of thirty days. I took samples of the goods, among which was the post-office box, and went west as far as Pittsburgh. From that point I went up the Monongahela river, selling my first post-office boxes at Elizabeth, Pennsylvania; thence to Connellsville and Uniontown, selling boxes at each place, and on my return to Pittsburgh I closed with the postmaster for a number of boxes. This all occurred within the thirty days, when I received a telegram from Mr. Yale to return to New York, which I did, and we then effected a permanent arrangement, and I started on another trip West.

Q. 5. And what was your position with the Yale Lock Manufacturing Company from that time on to the time when you became manager of the New York office?

A. I was their travelling salesman until 1876.

Q. 6. During this period, commencing with your experimental trip in 1869, how extensively did you visit post offices throughout the United States with the view of introducing the Yale metallic front box?

A. I spent my entire time at that business until during 1875, when I devoted a portion of it to time-lock business in each town, visiting the postmaster and the hardware trade, to whom we sold locks.

115 Q. 7. How many post offices in the United States and what post offices did you find, in your travels, had been supplied with Yale metallic front lock boxes prior to your taking this business up?

Objected to as not proper in rebuttal.

A. About thirteen or fourteen: Boston, Massachusetts; Burlington, Vermont; Middlebury, Vermont; Mystic Bridge, Connecticut; Richmond, Virginia; Lawrence, Massachusetts; New Haven, Connecticut; Concord, New Hampshire; Bangor, Maine; Hartford, Connecticut; Cumberland, Maryland; New Berne, North Carolina; Haverhill, Massachusetts.

Q. 8. Please state what your experience was when you took up the business of travelling for the Yale Lock Company in regard to the readiness with which the Yale metallic lock box was appreciated and the facility with which sales of it were made.

Same objection.

A. They met with a ready sale, as postmasters seemed to understand their advantages over the old wooden box with but little explanation.

Q. 9. Please state how rapidly such sales of such boxes were made by you and where during the first year of your travels.

Same objection.

A. During the first year I sold to thirty-two post offices, as follows, and in rotation as named: Elizabeth, Pennsylvania; Connorsville, Pennsylvania; Uniontown, Pennsylvania; Pittsburgh, Pa.; Rouseville, Pa.; Auburn, New York; Oswego, New York; Rome, New York; Catskill, New York; Cold Spring, New York; Yonkers, New York; Elizabeth, New Jersey; Waterbury, Connecticut; Palmer, Massachusetts; Portland, Maine; Gloucester, Massachusetts;
116 Dover, New Hampshire; Plattsburgh, New York; Essex Junction, New York; Vergennes, Vermont; Fitchburg, Massachusetts; Waltham, Massachusetts; Providence, Rhode Island; New London, Connecticut; Allentown, Pennsylvania; Elmira, New York; Tamaqua, Pennsylvania; Carlisle, Pennsylvania; Huntington, Pennsylvania; Clearfield, Pennsylvania; Birmingham, Pennsylvania; Gillipolis, Ohio.

Recess.

Q. 10. About how many of said metallic front boxes did you sell during the first year?

Same objection.

A. Thirty-four hundred.

Q. 11. And during subsequent years what was the course of business as to the increase or decrease of sales?

Same objection.

A. The sales largely increased.

Q. 12. From year to year?

Same objection.

A. Up to the latter years, after the territory was pretty well supplied in which I traveled, my sales decreased, but the company's increased, with perhaps one or two exceptions during Presidential election years.

Q. 13. The sales that you have referred to in the 9th and 10th answers were sales by you personally, and exclusive of the sales by the company?

Same objection.

A. They were.

117 Q. 14. During your travels did you ever hear the novelty of the metallic fronts of the post-office boxes questioned by anybody?

Same objection, and as immaterial.

A. Not during the first years.

Q. 15. Did you know the metallic-fronted post-office boxes which were supplied by the Johnson Rotary Lock Company?

Same objection.

A. I did.

Q. 16. When and where first did you ever see any of such boxes?

Same objection.

A. I saw them first at Elizabeth, New Jersey, in the summer of 1870.

Q. 17. About how many of them were there?

Same objection.

A. As near as I can recollect, about forty.

Q. 18. Do you know whether they were then freshly put into that office or not?

Same objection, and as calling for hearsay.

A. From the appearance of the boxes and from what the postmaster told me, I judged they had been put in but a short time.

Q. 19. Will you please state how those first Johnston boxes were arranged; were they so arranged as to have a continuous metallic frontage?

Same objection.

A. They were not so arranged, but were attached to wooden pigeon holes in such a manner as to show about two inches of the
118 wood-work between each box, a portion of the front being made of wood to cover the pigeon holes, which latter were larger than the hole in the frame in the metallic lock box—that is, the fronts of the pigeon holes were closed at the front end with a solid piece of wood, in which openings were cut sufficiently large to admit the metallic lock-box door frame, the opening thus made being smaller than the opening of the pigeon hole.

Q. 20. Were metallic front Johnston Company's boxes afterwards, to your knowledge, supplied to other offices in the United States than Elizabeth, New Jersey?

Same objection.

A. They were.

Q. 21. Did the Yale Company meet with active competition with said Johnston Company boxes; if so, to what extent?

Same objection.

A. There was considerable competition, principally, however, with Government work.

Q. 22. How's that?

Same objection.

A. In buildings owned by the Government the supervisory architect had control of the purchase of the boxes, while in the smaller offices the postmasters purchased and owned their own boxes.

Q. 23. Whose metallic-front box did the supervisory architet favor?

Same objection.

A. Johnson Rotary Lock Company's box.

Q. 24. Had the Johnson Rotary Lock Company, prior to your taking hold of the introduction of the Yale metallic-front boxes,
119 been supplying the Government with any post-office work; and, if so, what?

Same objection.

A. They had been supplying the Government with a drawer lock for attachment to wooden boxes.

Q. 25. Do you know at what price?

Same objection.

A. About $36 per dozen.

Q. 26. And at what price did the Yale Company supply the metallic-front lock boxes provided with locks complete?

Same objection.

A. I think our offer at that time was about two dollars and a quarter each box, which included the wood-work.

Q. 27. Did you ever meet in your travels and visits to post offices any post-office lock boxes, having metallic doors but no metallic frames, constructed like "Defendant's Exhibit Westerly Model;" and, if so, where?

Same objection.

A. The only boxes I ever saw of that kind during my trip was at Taunton, Massachusetts, where I saw what I think was precisely the same as exhibit.

Q. 28. Do you know any practical objection to boxes constructed in that way?

Same objection.

A. I consider them little better than a box with a wooden door, as the hinges being screwed to the wood, the metal door being heavier, the hinge soon gets loose from the wood.

120 Q. 29. Are they really any more secure than a box with a wooden door?

Same objection.

A. I think not, unless supplied with a heel pin, like those supplied in our metallic boxes.

Cross-examined by Mr. CLARK:

X Q. 30. State at what time in your said travels you first visited each of the post offices specified in your seventh answer.

A. Boston, Burlington, Middlebury, Lawrence, New Haven, Concord, Bangor, Hartford, and Haverill, was during the summer of 1870; I can't give you the exact date. Richmond, Newburgh, and Cumberland, about 1873.

X Q. 31. In your said travels did you ever see any post-office boxes with metal doors and metal door frames other than of the manufacture of the Yale Company or of the Johnston Company?

A. I saw what was known as the Bramble boxes at La Fayette, Indiana, during the summer, I think, of 1871. I also saw some boxes manufactured, I think, by Charles Staples and the American Steam Safe Company of Boston while I was at Portland, Maine, in 1870. I afterward saw boxes similar to those of the Steam Safe Company in use at Montpelier and St. Johnsbury, Vermont. Sargeant & Greenleaf also made a few boxes which were in use at a small town in Northern New York, near Rochester.

X Q. 32. Tell us how the Bramble boxes were arranged.

A. The Bramble metallic front was attached to a wooden pigeon hole and the door arranged to be opened from the back, so that it could be utilized either as a lock box or a call box when the
121 party called for his mail without having his key. This was the principal feature claimed for the Bramble box.

X Q. 33. Was the arrangement such as to present a continuous metallic front in the Bramble boxes?

A. It was.

X Q. 34. There was a separate door frame for each pigeon hole, I understand?

A. Yes.

X Q. 35. Now, as to the Staples boxes and Steam Safe boxes which you saw at Portland.

A. They were not in use; simply samples submitted to the superintendent in charge of the new building there.

X Q. 36. During the first years of your said travels did you see any other boxes in use having a continuous metallic frontage and wooden pigeon holes other, I mean, than Bramble, Yale Company, and Johnston Company?

A. Prior to the summer of 1870, when I first saw the Johnston rotary lock box, I never saw any other box with a metallic frontage during my convassing; it was afterwards that I saw them.

X Q. 37. Answer my last question, please, as to the time prior to May, 1872.

A. I saw the Sargeant & Greenleaf, the American Steam Safe Company, and those made by Charles Staples and Son—that's all; these are all that I can recollect.

X Q. 38. Won't you tell me how the Steam Safe boxes which you saw in use were put up?

A. My impression is that they were fastened to the pigeon holes by screws put in from the front when the door was open.

X Q. 39. I understand you to mean that no part of the frame entered the pigeon hole, but the frame was set up against the edge of the wood-work, and that the frames were screwed to the front edges of the pigeon hole, and that when the door was closed it covered the heads of the screws, so that they could not be turned out?

A. Such is my recollection of their construction.

122 X Q. 40. Was there a separate frame for each pigeon hole?

A. I think not; they were cast in sections of three, if I recollect right.

X Q. 41. Now, as to the Sargeant & Greenleaf boxes which you saw in use prior to May, 1872; how were they put up?

A. In the same manner as the Steam Safe boxes; in fact, I think they used the same patterns; both concerns.

X Q. 42. Now, as to the Staples boxes which you saw in use prior to May, 1872; how were they put up?

A. I only saw samples of their boxes: I have no distinct recollection.

X Q. 43. In that sample were the fronts attached to wood-work?

A. I can't remember; my impression is it was only a front, not attached to wood-work.

X Q. 44. Now, as to the Bramble boxes which you saw in La Fayette in 1871; how were they put up?

A. I have no distinct recollection how they were fastened, but my impression is that they possibly had a flange entering the wood-work.

X Q. 45. Were the frames attached together as well as to the wood-work in the Bramble boxes?

A. I can't say as to that.

X Q. 46. What is your best recollection?

A. I haven't the slightest idea; it is so long ago.

X Q. 47. In 1870 did you see the Johnston boxes anywhere else but in Elizabeth in use?

A. I recall seeing them in Burlington, Vermont, in 1870, and also at Rutland, Vermont, in 1870, 1871, or 1872; I am not positive which.

X Q. 48. How were they put up at Rutland?

A. My recollection of Rutland is very distinct, from the fact that I noticed a change had been made in the mode of attaching the fronts to the wood-work, screws being used instead of the
123 method previously used of riveting one door frame to the other.

X Q. 49. That is, I understand, a part of the frame entered into the pigeon hole, and through this part the frame was screwed to the wood-work, but the frames were not connected together?

A. That is correct.

X Q. 50. At Rutland was the arrangement such as to present a continuous metal front?

A. It was; the door frames abutting on one another.

X Q. 51. How was it at Burlington?

A. My recollection of Burlington is that the wood-work was a little heavier, and that the frames did not abut on one another, but were riveted one to the other by rivets which passed through flanges (that entered the boxes) and the wood-work.

X Q. 52. How were the Johnson frames at Elizabeth, New Jersey, fastened?

A. They were fastened by screws to the wood-work, these screws passing through flanges that entered the wood-work, but the frames were not fastened one to another.

X Q. 53. Do you know Henry R. Towne, president of the Yale Lock Company?

A. I do.

X Q. 54. How long?
A. Since 1869.
X Q. 55. Can he write?
A. Yes.
X Q. 56. How do you know?
A. Because I have seen him write.
X Q. 57. How often, about?
A. A great many times; I have no idea how many times; I have seen him write quite often and corresponded with him for a number of years.

Redirect examination by Mr. BETTS:

124 R. D. Q. 58. How many of the Steam Safe Company, Sargeant & Greenleaf, and Staples boxes did you see at the different places?
A. I should judge about five or six hundred altogether; at St. Johnsbury, about 80; Montpelier, about 100; at Rochester there was, perhaps, about two or three hundred; at the small town near Rochester, 40 or 50; New Britain, about 190.
R. D. Q. 59. Where was Sargeant & Greenleaf's factory located and where was the Steam Safe Company's?
A. Sargeant & Greenleaf's factory was at Rochester, New York, and the Steam Safe Company's factory, when in existence, at Boston.

Recross by Mr. CLARK:

R. X. Q. 60. Do you recollect any case where the Yale boxes were broken into and robbed?
A. I only know from hearing that the first Boston boxes were robbed by breaking the glass, which was afterwards remedied by putting the lattice-work in; this was prior to my connection with the company.
R. X. Q. 61. Any other cases?
A. Not that I recollect.

THOS. F. KEATING.

Sworn to before me—

JOSEPH GUTMAN, JR., *Examiner.*

Adjourned till Tuesday, March 20th, 1883, at 11 a. m.

125 NEW YORK, TUESDAY, *March* 20, 1883—11 a. m.

Present: Frederic H. Betts, Esq., for complainant; Mr. Clark, ass't dist. att'y, for defendant.

HENRY R. TOWNE, a witness of mature age produced on behalf of the complainant, being duly cautioned by me and sworn to testify the truth, the whole truth, and nothing but the truth in the matter in controversy herein and being examined by Mr. BETTS, counsel on behalf of the complainant, says:

Q. 1. What is your name, age, residence, and occupation?
A. Henry R. Towne; 38 years of age; residence, Stamford, Connecticut; president of the complainant company.

Q. 2. How long have you been president of the Yale Lock Manufacturing Company?

A. Since 1869; prior to which I was its secretary from the date of its organization.

Q. 3. To what extent are you familiar with the history of the introduction of the Yale metallic-front lock box—from the commencement of such introduction?

Objected to as incompetent, immaterial, and not proper in rebuttal.

A. Of its introduction prior to my connection with the company I learned from personal communications from the late Linus Yale, Jr., before his death, and from his son, J. B. Yale, and other employees of the company, and from the records of the company's business; since my connection with the company I have directed all its affairs, and have had an intimate knowledge of all that has been done in this regard.

126 Q. 4. Please state what the history of the introduction to the public of the said Yale Metallic-Front Post-Office Box was with reference to the question whether the said invention was immediately appreciated by the public or not, and how rapidly introduced into use, and to what extent it has been adopted in public use.

Same objection, and further that the question calls for matters not within the witness' personal knowledge, as appears from his last answer.

A. The first post office equipped with these boxes was that of Boston, Massachusetts, which was supplied, I think, in 1868. The preparations for the regular manufacture of the boxes by our company were not completed until during 1869. The growth of the business will be best shown by the following table of the number of boxes sold in each of the succeeding years, as I have ascertained by reference to our books, viz:

In 1868–'9 (including Boston)	7,328
1870	1,565
1871	8,563
1872	10,812
1873	17,061

Since that time the business has continued to grow rapidly, so that up to the present date our company has furnished over 200,000 boxes, in addition to which I estimate that there are in use not less than 75,000 additional boxes made by infringing or competing firms.

The promptness with which the utility of the invention was appreciated by the public is indicated by the large and constant increase in the number of boxes sold during the years immediately following its introduction; in considering which it should be borne in mind

127 that the common glass call box was then widely known and used, and that wooden lock boxes and drawers were also well known and were in use in many offices, and that the price

at which the metallic-front box was sold was many times greater than the cost of call boxes, and considerably more than the cost of an ordinary wooden-fronted lock box.

Q. 5. Please state to what extent the said Yale metallic post-office boxes have superseded other forms of post-office boxes in the United States.

Same objection.

A. In the largest post offices the metallic-fronted lock boxes have been adopted to the practical exclusion of all other kinds; in the next class it is now customary to always provide a considerable proportion of such boxes and frequently to use them entirely; in the smaller offices it is largely customary to provide some of such boxes, the proportion varying chiefly according to the ability of the postmaster to purchase the metallic-fronted boxes; in our experience, acquired in equipping some fifteen hundred post offices of all classes, we find it to be the universal desire, both on the part of the postmaster and the public, to have as large a proportion as possible of these boxes; if it were not for the unavoidable difference in price between them and the simple call box, I am confident, speaking from wide experience, that the metallic-fronted lock boxes would long since have superseded entirely all other kinds.

Q. 6. Soon after the introduction of the Yale metallic-front lock boxes into public use did any other parties attempt to get the benefit of the invention by introducing similar boxes; and, if so, who were such parties?

Same objection, and as calling for opinions and conclusions.

128 A. At first, and during what may be called the experimental period, we had no competition; the new boxes, however, very quickly demonstrated their practical value and convenience, and this proved, we at once began to have competition, commencing as early as 1870; this competition came chiefly from the American Steam Safe Company, Sargeant & Greenleaf, and the Johnson Rotary Lock Company, afterwards doing business as John L. Chambers and as the National Lock and Manufacturing Company.

Q. 7. Please state who these several parties were who thus took up the business of metallic-front post-office boxes after you had introduced them, with reference to the character of the business which they had been previously doing.

Same objection.

A. The first named were manufacturers of fire and burglar proof safes, safe-deposit boxes, &c.; the second party were makers of locks, particularly of locks for safes, vaults, and safe-deposit boxes; the last-named party had, I believe, done but little business prior to undertaking this work.

Q. 8. Please state what became of these several infringers—whether they have ceased making such boxes—whether you have prosecuted any of them, and, if so, with what result.

Same objection, and as calling for secondary evidence.

A. The delay in obtaining our patent prevented our acting promptly against infringers. When the patent issued our chief competitor was the party last above named, and we promptly commenced a suit against them under the patent, the ultimate result being the granting of a permanent injunction; each of the other parties assured us verbally that they would then cease infringement, and, accepting this assurance, we did not sue them.

129 They both discontinued the infringement and have never resumed it.

Q. 9. Did you know of any party, who, prior to the introduction of the Yale metallic-front box, had patented the wooden-front box, and who, after the introduction of the Yale invention, attempted to get the benefit of it by making and offering for sale metallic-fronted boxes?

Same objection.

A. I do; In 1866, one W. H. Bramble patented a post-office box having a frontage partly of metal and partly of wood. This box had never been accepted by the public or gone into general use, nor has it since done so; after the Yale box had become established, however, the Bramble box was remodelled so as to resemble the Yale box, by having a complete metallic frontage, and in this improved form was offered for sale by means of circulars filled with praises of its merits and emphasizing the fact that the boxes when set up "present a very beautiful and complete brass front with glass doors," and in another circular that "the front is entirely of cast brass," this circular containing an illustration of the boxes, colored, to indicate that their entire frontage is of metal, without any exposed wood-work. I produce here the two circulars referred to.

The circulars are offered in evidence by complainant's counsel and marked "Complainant's Exhibits Bramble Circular No. 1 and Bramble Circular No. 2." The circulars are as follows:

130 COMPLAINANT'S EXHIBIT BRAMBLE'S CIRCULAR NO. 1. J. G., Jr., Examiner.

Bramble's automaton mail delivery is the most perfect in existence for the purpose designed. With the late improvements of the inventor it claims to be the great labor-saving invention of the age. Wonder and pride of the country and the embodiment of American utilitarian ingenuity. This wonderful invention, whilst it ever excites the wonder of the curious, never fails to satisfy the requirements of practical men.

This box consists of a brass door frame which is hinged to a small brass frame which is attached to the front of box or boxes. The centre of the door is glass; the door is self-adjusting and back ac-

tion, with an invisible double-jointed crank hinge. The same power that opens the door throws out the platform which rests on the bottom of the box where the mail is placed. The lock is attached on the out end of platform; the upper edge of lock projects above lower edge of door when closed. When the key is inserted the platform is detached from the box and thus thrown out by the elevation of the door. The power used for elevating the door and sliding out the platform which contains the mail is the invisible back-action double-jointed crank hinge which is placed near the top of the door on the inner side. The mail is taken off, door
131 closed, lock placed back against the bottom of door, key withdrawn, which completes the locking of the box.

In case of lost or mislaid keys, call the clerk; he taps the box, the door opens, and your mail is placed before you as before. If postage or rents are due the working of the lock is closed, so the key will not have any effect on the lock, and thus compel the owner to call at the delivery and settle before he can have access to his box.

The locks used on these boxes are Bramble's combination lock, the most perfect and complete lock for post offices in the world—very simple, compact, safe, and reliable, and is susceptible of more changes with less expense than any lock now made. Ten thousand different changes can be made on this lock so no one key will unlock two locks, and without any additional expense to the lock. In short, the history of inventive progress has never nor is it likely for years to come to be called on to herald the introduction of an article that will be so universally used as Brambie's mail delivery. These claims are so new and extraordinary as to be pronounced by some incredible. The inventor backs his insertion by a forfeiture of one thousand dollars for a more complete and perfect lock box than the "Bramble automaton mail delivery."

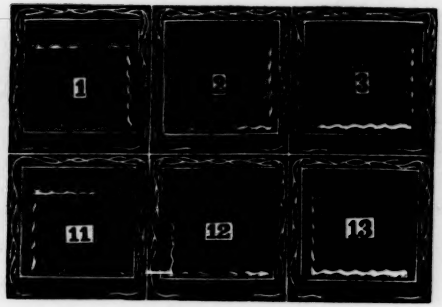
We have established a manufactory and will be able to fill any or all orders on short notice. The boxes are made in sections of one hundred each and will be shipped to any part of the United States. When set up they present a very beautiful and complete brass front with brass doors.

For further particulars address the undersigned,

WILLIAM H. BRAMBLE,
Inventor and Patentee, Decatur, Ill.

132 COMPLAINANT'S EXHIBIT BRAMBLE CIRCULAR No. 2. J. G., Jr., Examiner.

Bramble's Automaton Mail Delivery.



Important to postmasters.

DEAR SIR: Permit me to call your attention to a new and important invention now being introduced, viz:

Bramble's Patent Lock Box for Post Offices.

The following are some of the advantages of this lock box over all others: The office attendant is enabled either to bolt or unlock the door by a simple device at the rear end of the box, thus giving him complete control of the "mail" at all times. The bolting enables the attendant to collect box rent or postage without inconvenience. The unlocking from the rear enables him, in case the key is lost or mislaid, to open the box to the owner, who relocks it by merely closing the door.

Utility.

By the use of lock boxes delay in the delivery of mail matter is avoided, as they are not closed during the assorting of mails, nor can delay be caused by an insufficiency of delivery clerks, as boxholders deliver their own "mail," and with a good lock the mail is more secure than when dependent upon the recognition of
133 the applicant by the clerk, while any boxes are preferred by many to the carrier system as more safe and prompt.

General appearance.

The above cut presents the appearance of these boxes in use. The front is entirely of cast brass, the door frame containing strong glass that the contents of the box may be seen, each door being numbered on the centre.

Your special attention is called to the lock, it being of an entirely new principle, while it is very simple in construction and operation, not liable to get out of order, and yet combines all that is

desirable in a good lock. It contains six tumblers, and such is their capacity for permutation that one million locks can be constructed without duplicating a single key. These changes are made by a regular system and not by chance.

The key is of thin flat steel. A correct record is kept of the key changes sent to each office, so that in case of further orders none would be forwarded that were duplicates to those previously sent. Should duplicates be required one of the keys should be returned to duplicate by. When all are lost the lock should be detached to be reset to new keys. Extra locks will be furnished to be kept on hand by the postmaster, as the lock can be used in any box and in a moment inserted or removed.

Operation of the lock by box-holder.

To unlock the door from the outside you have only to insert the key when the door will open, being automatic in its operation. To lock the same you have simply to close the door and withdraw the key. No turning of the key required.

The boxes are built in sections of one hundred (numbering ten each way), everything complete, including wood-work, glass, and numbers ready to place upon the platform or base, thus saving further trouble or expense.

134 The boxes are presented to the office, and the locks with keys sold to the postmaster, by him to be sold to the ones renting the boxes. When a box is given up the lock is removed and handed to the owner and another substituted. Another important consideration is that these boxes cost less than the ordinary lock boxes.

E. SPAFARD,
American House, Norwich, Conn.

Adjourned till Wednesday, 28th March, 1883, at 11 a. m.

NEW YORK, WEDNESDAY, *March* 28, 1883.

Met pursuant to adjournment.

Present: Frederic H. Betts, Esq., for complainant; Mr. Clark, assistant district attorney, for defendant.

Examination of Mr. TOWNE continued:

Q. 10. Did you know the late William L. Burt, postmaster of Boston?

A. I did.

Q. 11. Were you cognizant of any claim by him to have invented metallic front post office boxes?

Objected to as incompetent, immaterial, and not proper in rebuttal.

A. I was.

Q. 12. Did you ever have any interviews with Mr. Burt on that subject?

Same objections.

135 A. I did.

Q. 13. When you first became connected with the Yale Lock Company was the application of Linus Yale, Jr., for the patent which was subsequently granted on September 19, 1871, then pending?

Same objections.

A. My connection began with the organization of the present company, in October, 1868. I think the application referred to was then already filed, or filed very soon afterwards.

Q. 14. Did you learn in your interviews with Gen. Burt and your negotiations about his claim upon what such claim on his part was based; if so, please state the same.

Same objections; also as leading; also as calling for conclusions of the witness.

A. Chiefly upon the fact that he had conceived the idea of fitting up his post office at Boston with lock boxes having metallic faces or fronts, and that in the effort to put this idea into practical form he had employed some one to make a drawing and a model of a section of such boxes. Gen. Burt, I discovered, was not experienced in matters of invention and patents, and did not clearly understand what constitutes invention in the sense used in patent practice. The fact was that the drawing and model referred to as made by his direction embodied an inoperative and impracticable device, and that having reached this point he then submitted his scheme to the late Linus Yale, Jr. The primary object of this was to have his device provided with locking mechanism. In attempting to provide this Mr. Yale at once discovered that no space had been provided on the doors adequate to receive the locking mechanism, and he
136 therefore reconstructed the door to remedy this vital defect. Having done this he next designed a new and practical frame to inclose the door in place of the impractical frame shown in the model sent by Burt. The outcome of this process was the evolution by Yale of the metallic-fronted lock box afterward adopted by Burt for the equipment of his post office at Boston. In my interviews with General Burt it was always apparent that he regarded his conception of the project of having metal-fronted boxes as a fully-fledged invention, and that he regarded the work done by Mr. Yale in designing and making the practical details of the door and frame as simply the work of a mechanic in his employ. It was upon this view of the events which led to the invention of the box in question that General Burt based his claim to be its inventor.

The part of the answer beginning with the words "the fact was," down to the words "in my interviews with General Burt," objected to also as irresponsive, and as stating matters not within the witness' knowledge; motion to strike out on those grounds.

Q. 15. Have you examined the Exhibit "Moore Drawing," which has been put in evidence by the defendant, and has been testified to by the defendant's witness, Frederick H. Moore, as the drawing of

proposed post-office box front prepared by him under the direction of General Burt, and the metallic front made after it, which he states he believes was sent to the Yale Lock Manufacturing Company for the purpose of being provided with locks, and do you understand the construction of front therein shown? And, if so, please state whether, in your opinion, a front made as shown in said drawings would be a practical metallic front for post-office boxes, or could be practically attached to a series of wooden boxes, and give your
137 reasons for any opinion you may express. You may state also what experience you have had which enables you to form and express an opinion upon this question of practicability.

Objected to because the recital of Moore's testimony does not take into account his (Moore's) answer to the 8th question.

A. I have examined the exhibit referred to and understand it. In my judgment, it does not show a practical metallic front for post-office boxes. It consists of a thin plate of metal set on edge against the front of a series of wooden pigeon holes and having openings to correspond with them. It neither shows nor suggests any method of fastening this sheet of metal to the wood-work, and the only obvious mode of attachment it admits of is by nails or screws driven through holes drilled through the narrow lines of metal left between the door openings into the thin wood partitions behind. These holes if drilled would badly weaken the metal front, and the nails or screws would tend to split the thin wooden partitions. Moreover, the attachment thus afforded would be very slight and insecure; a further difficulty would be experienced in the use of a thin flat front without flanges, as it would be found to spring and draw off from the wood-work in use, and from the effect of the slamming of the doors. This difficulty was demonstrated practically in some of the boxes made by the Johnson Rotary Lock Company—as, for instance, those furnished by said company to the post office at New Haven, Connecticut. The Moore exhibit also shows a single frame covering a multitude of boxes, the apparent intention being to make a distinct size of frame for each sized section of boxes. Aside from the inherent difficulty of fastening such a flat front to the wood-work and of maintaining its surface in
138 a flat condition or true plane, as above explained, is the further objection that it admits of no convenient variation in the size or shape of the nests of boxes, although in practice it is found that these vary constantly and indefinitely in their form and size, so that the only practically convenient construction consists in having a unit or single box, capable of combination with any number of similar units in any desired manner. The Moore Exhibit also fails to show any practical provision for a locking device or for adequately securing the glass to the door. My opinion on these points are based upon fourteen years' experience in the manufacture of metallic lock boxes, during which more than 200,000 such boxes have been made, and some 1,500 post offices equipped with lock boxes under my personal direction and management.

Recess until 2 p. m.

SAME DAY—2 p. m.

Q. 16. Did you submit the facts as you have above stated them in regard to what was done by General Burt and what was done by Mr. Yale to counsel of the company at the time that General Burt made this claim and take the advice of counsel thereon as to which party was the inventor of the metallic-fronted post-office boxes?

Objected to as incompetent, immaterial, and not proper in rebuttal, and irrelevant.

A. We did; for many reasons we then greatly desired the assistance and co-operation of General Burt in introducing the boxes, believing that his experience as a postmaster and his influence and intimate relations with the Government would be of great value to us in getting this business started. He had proposed to assign
139 the patent, if obtained by him, to us on terms that were satisfactory to us. Moreover, as what we desired chiefly from him was his advice and influence, we offered to pay him the same royalty upon the boxes sold and introduced with his assistance whether the patent issued to him or to Yale. It was thus immaterial to us to whom the patent issued, except that we desired its issue to the legal inventor, so that our rights in it could not be afterwards unsettled. On this point we took the advice of counsel, and also gave it very careful consideration ourselves. At one time it was proposed that Mr. Yale's administrator should execute a concession of priority to Burt, our object being to conciliate Burt and retain his assistance in introducing the new boxes. Finally, however, our counsel advised us that Yale having under oath stated the invention to be his, it was not competent for his administrator to state the contrary, and that the proposed concession to Burt, if made, might result in our obtaining an invalid patent, and thus leave us without any protection.

Q. 17. Was the result of your submission of the facts to your counsel communicated to General Burt by your company?

Same objection.

A. It was; by a letter to him from Mr. J. B. Yale, then the treasurer of our company.

Objected to as irresponsive, except the words "it was."

Q. 18. Was a copy of that letter kept in the letter book and have you now the copy taken at that time?

Same objection as to question 16.

A. It was, and I have it.

Q. 19. What became of the original?

Same objection.

140 A. I presume it was forwarded by mail to General Burt.

Q. 20. Please produce the copy.

Same objection.

A. I do so.

Copy letter is offered in evidence by complainant's counsel and marked "Complainant's Exhibit J. B. Yale Letter."

Same objection.

(Copy letter is as follows:)

FEB. 4TH, '70.

Gen'l W. L. Burt, P. M., Boston.

DEAR SIR: I have until to-day been unable to get an opinion by our counsel of the advisability or safety of the arrangement proposed in regard to patent for post-office locks and boxes. He says it will be very unsafe to allow the patent to issue to any one not the inventor, inasmuch as with our application as proof of our claims any one so disposed can call upon us to testify and perhaps break our own patent if we prove to have been the original inventors. So no course now remains but to proceed with the examination, which is to take place to-morrow, I think, but which, if so disposed, I wish you would get postponed, and write us your views of the matter as it now stands, and give us any suggestions you have to make.

Please let us hear from you with some idea of the time at which you will return to Washington.

Yours truly, JNO. B. YALE.

141 Q. 21. This letter of February 4th, 1870, speaks of "the arrangement proposed." What arrangement was that and who proposed it?

Same objection.

A. The arrangement was that I have above mentioned, namely, that priority should be conceded to Burt and his patent allowed to issue; the arrangement was proposed, I think, by Gen'l Burt or else by Mr. J. B. Yale, but I think by the former.

Q. 22. The letter also speaks of "the examination which is to take place to-morrow." What examination was that?

Same objection.

A. I think the examination referred to was of witnesses in regard to dates of invention in the interference proceeding between Yale and Burt.

Q. 23. Do you know whether any witnesses were ever in fact examined on behalf of General Burt?

Same objection.

A. I do not now remember, these matters not being then under my charge.

Q. 24. Do you remember who prepared the application papers for the first reissue of the Yale patent—I mean the one that was granted July 9, 1872?

Same objection.

A. Mr. G. M. Clinton.

Q. 25. Who prepared the papers for the second reissue of the Yale patent—I mean the one dated April 24, 1877?

Same objection.

A. The final papers were prepared, I think, by myself in consultation with Mr. T. M. Hopkins.

142 Cross-examined by Mr. CLARK:

X Q. 26. Mr. Towne, how do you know the Exhibit "J. B. Yale Letter" was written by Mr. Yale?

A. I am intimately familiar with his handwriting and know also that, in the recent search for matters in our books bearing upon this case, a number of his letters were cut out of our books for use here, of which I recognize this as one.

X Q. 27. When was it that you took the advice of counsel as you have stated and who was the counsel?

A. In 1869 and '70; Mr. H. B. Renwick.

X Q. 28. I note that this letter calls on Burt to give any suggestion and his "views on the matter as it now stands." Was the "arrangement proposed" in negotiation after this letter?

A. I cannot now say, but I think that the project of conceding priority to Burt was not again revived.

X Q. 29. Why can't you state?

A. Because my memory of these dates and details is not fresh enough; my recollection of the main points in the case is perfectly clear, but I cannot, after the lapse of thirteen years, be entirely sure as to precise dates.

X Q. 30. In answer to question 23 you say that these matters were not then under your charge. When did they come under your charge?

A. In the autumn of 1870.

X Q. 31. After you took charge of them were there any negotiations with Burt as to the proposed arrangement? You ought to remember that without reference to the specific date.

A. Not as regards the patent, the interference proceedings concerning it having been already decided in favor of Yale.

X Q. 32. The record shows that the notice of dissolution of interference, after the decision in Yale's favor, was dated March
143 7th, 1870. I understand you to mean that after that date you had no negotiations with Burt as to the said "proposed arrangement?"

A. Not exactly; at that time the matter on our side was in charge of Mr. J. B. Yale; his connection with the company ceased in the summer of 1870, and this matter then passed into my charge; it is possible that some further communications passed between General Burt and Mr. J. B. Yale after the dissolution of the interference and before Mr. Yale left the company; after this latter event, however, I know that the matter was not reopened.

X Q. 33. Did Yale's administrator, Brooks, sign a concession of priority to Burt, in point of fact?

A. I believe that he did so at the request of Mr. J. B. Yale.

X Q. 34. Did you send that concession to Burt?

A. I cannot say what was done with it, Mr. J. B. Yale having had

all to do with it: my understanding is that this concession, if ever executed, was afterwards destroyed by Mr. J. B. Yale as useless and incorrect.

X Q. 35. Did the making of such concession and the destruction thereof, as you say, by Mr. J. B. Yale, either of them, take place before the dissolution of the interference?

A. As previously stated, I have no personal knowledge whatever regarding this alleged concession, and, therefore, cannot say more than I already have about it.

X Q. 36. What were the relations of the complainant company to this patent of Yale in 1869 and '70?

A. The company had a contract under which it had exclusive rights to the use of all of Yale's numerous patents, in return for which his estate received a percentage of the company's profits.

Adjourned till Tuesday, April 3d, 1883, at 11 a. m.

144 NEW YORK, *April* 3, 1883—11 a. m.

Further adjourned to April 13, 1883, at 11 a. m.

JOSEPH GUTMAN, JR., *Examiner.*

N. Y., *April* 13, 1883—11 a. m.

Examination further adjourned to day to be fixed.

JOSEPH GUTMAN, JR., *Examiner.*

N. Y., *April* 27, 1883—11 a. m.

Present: Mr. Hoyt, counsel for complainant, and Mr. Clark, counsel for defendant.

Cross-examination of the witness HENRY R. TOWNE continued by Mr. S. B. CLARK:

X Q. 37. I understand that the separate fronts of the Yale Company are made of a uniform size, and interchangeable in substantially the following manner: There is an iron block or die with an opening through it of the exact size of the inside of the pigeon hole. The door frame, being of cast brass or bronze, is a trifle smaller than the opening of the block, and is placed therein, and a drift or swedge is then driven into the inside of the door frame, which is thus spread or stretched to fill the opening in the block. The result of this process is that all the frames so treated would fit into
145 the same pigeon-hole or block. The door frame is then placed in another block attached to the bed of the edging machine, such block being a little smaller on the outside than the finished frame is to be on the outside. Another block or plate fills the inside of the door frame, and also rests on top of it to hold it down firmly by a screw or bolt passing through it into the bed of the machine. A mill or cutter is then carried around the outside of the door frame, and cuts it to the exact length and width required, the work being tested by standard metal gauges. The result of this is to make the frames exactly the same size and interchangeable. Am I correct in my understanding?

Objected to as not responsive to the direct examination.

A. You are.

X Q. 38. How long has that been the case?

Same objection.

A. I think we have always made the frames in substantially the manner above stated, excepting, perhaps, as to the swedging, which, I think, has not always been done.

X Q. 39. I show you a paper purporting to be a letter from John B. Yale to General Burt, dated March 29th, 1870. Whose handwriting is it in?

A. I believe it to be that of John B. Yale.

Counsel for defendant offers letter in evidence and marked "Defendant's Exhibit J. B. Yale Letter No. 1, April 27, 1883, J. G., Jr., examiner."

X Q. 40. I show you a paper purporting to be a letter from John B. Yale to General Burt, dated May 21, 1870. Whose handwriting is it?

A. Mr. Yale's, I think.

146 Counsel for defendant offers letter in evidence and marked "Defendant's Exhibit J. B. Yale Letter No. 2, April 27, 1883, J. G., Jr., examiner.

X Q. 41. I show you a paper purporting to be a letter from the Yale & Winn Manufacturing Co., J. B. Yale, ag't, to Burt, dated December 6th, 1867. Whose handwriting is it?

A. I think it is Mr. J. B. Yale's.

Counsel for defendant offers letter in evidence and it is marked "Defendant's Exhibit J. B. Yale Letter No. 3, April 27, 1883, J. G., Jr., examiner."

Objected to as immaterial and incompetent.

X Q. 42. The Yale & Winn Manufacturing Co. was the name of the concern with which Linus Yale, Jr, was connected previous to the present company beginning business; is that so?

A. It is.

Same letter No. 3 offered again.

Same objections.

X Q. 43. I show you a paper purporting to be a letter from Henry R. Towne, p't, to Burt, dated July 2, 1870. Whose handwriting is it?

A. It is mine.

X Q. 44. That letter was sent to Mr. Burt, I suppose?

A. I presume so.

Counsel for defendant offers letter in evidence and it is marked "Defendant's Exhibit Towne Letter A, April 27, 1883, J. G., Jr., examiner."

X Q. 45. I show you a paper purporting to be a letter from Henry R. Towne, p't, to Burt, dated July 26, 1870. Whose handwriting is it?

147 A. It is mine.

X Q. 46. It was sent to General Burt, I suppose?

A. Presumably.

Counsel for defendant offers letter in evidence and it is marked "Defendant's Exhibit Towne Letter B, April 27, 1883, J. G., Jr., Ex'r."

X Q. 47. At the date of "Towne Letter A," July 2, 1870, I suppose that J. B. Yale's connection with your company had ceased?

A. It had.

X Q. 48. The Mr. Eddy mentioned in "Towne Letter B" was Burt's solicitor, wasn't he?

A. He was.

X Q. 49. The papers referred to in that letter as requiring the signature of Yale's administrator included the concession of priority to Burt, did they not?

A. I can't say.

X Q. 50. What papers were referred to?

A. I cannot say definitely; it is now thirteen years since the occurrence and I was then inexperienced in patent matters and necessarily relied upon the advice of others in this case, probably Mr. Eddy; I suppose that I forwarded to Mr. Yale's administrator whatever papers Mr. Eddy had prepared and said were necessary.

X Q. 51. Does your recollection fail you on the subject of my last question?

A. Entirely; I do not even remember having an interview with Mr. Eddy at that time.

X Q. 52. Upon reading these letters of yours it is obvious that your answer to cross-question 32, where you say that the matter of the negotiation with Burt was not reopened after Mr. J. B. Yale left your company, was incorrect; is it not?

A. Apparently it is, and in explanation of the inaccuracy
148 I wish to state that for some years after Mr. J. B. Yale left the company the management of all its affairs rested almost solely upon myself. My present recollection of the multiplicity of matters that thus passed through my hands twelve or thirteen years ago is not always exact as to dates and sequence of events, although entirely clear as to the character and result of the transactions which then occurred.

X Q. 53. In your answer to cross-question 34 you said you thought the concession of priority was destroyed by J. B. Yale; do you think so now?

A. I am not sure, and can only say that these matters were previously managed by Mr. Yale, and after his retirement were attended to in great part by the solicitors or counsel who conducted our patent business. I have no recollection of ever seeing the alleged concession of priority.

X Q. 54. You said that it was proposed to pay Burt a royalty; did you, in fact, pay him a royalty?

A. We never paid him anything in the nature of a royalty, for he never obtained any patent; we did, however, pay him a commission on some of our earlier sales of lock boxes; our desire throughout in negotiating with Burt was to secure the valuable aid of his influence and official position in introducing the new system of lock boxes; as an inducement for him to give the necessary time and attention to this work in our behalf we offered to pay him a commission as agent of, I think, 10 cents per box upon all of our boxes sold through his instrumentality. For a little time, I think, we actually paid him such a commission upon all boxes sold by us, in the hope of so enlisting his self-interest as to induce him to really exert himself in furthering our interests in this matter, as we believed him fully capable of doing. Our letters to him at this time will show that we constantly and repeatedly endeavoured to move him to give us the desired aid. He was then an exceedingly busy
149 man, and for this reason, or for some other that I do not know, never really exerted himself in our behalf to an extent which appreciably did us any good. After repeated efforts on our part to secure his aid, none of which bore fruit, we discontinued the commission arrangement.

X Q. 55. I show you a paper which purports to be a letter from Henry R. Towne, p't, to Postmaster General Creswell, dated December 12, 1871; whose handwriting is it?

A. In mine.

X Q. 56. The letter was sent to the Postmaster General, I suppose?

A. I presume so.

Counsel for defendant offers letter in evidence, and it is marked "Defendant's Exhibit Towne Letter C, April 27, 1883, J. G., Jr., examiner."

X Q. 57. I call your attention to the fact that in "Towne Letter A," to Burt, you say: "We to pay you a royalty of 10 cents per box upon all sales of lock boxes." And to the further fact that in "Towne Letter C," to the Postmaster General," you say: "I fear that I did not perhaps reply explicitly enough to your inquiry as to whether or not we have offered P. M.'s a commission for securing Government orders for us, and desire to reiterate my statement that such is not the case, and to state further that no one connected with this concern has any present or prospective interest in any orders with which we may be favored by the Government." And to the further fact that J. B. Yale in "J. B. Yale Letter No. 1," to Burt, says: "Paying you same royalty as at present." I ask you to reconcile these statements with your answer to cross-question 54.

A. The several letters referred to clearly corroborate my previous testimony. In the first place, permit me to correct the first
150 quotation of the question, which, as it stands, implies a distinct offer over my name to pay Burt a royalty; the entire paragraph of that letter is as follows: "The negotiations between

yourself and the company have been so entirely in the hands of Mr. J. B. Yale that I feel somewhat in the dark about them; I believe, however, that it was finally agreed that our application should be withdrawn in your favor, and that your patent should be assigned to us as soon as issued, we to pay you a royalty of ten cents per box on all sales of lock boxes." The allusion here is clearly to the payment to Burt of a royalty under a prospective patent. The same is true of the allusion in the Yale letter, which states that "if you are still willing to make an assignment of it (the patent), on its issue, to us with exclusive right to manufacture, paying you same royalty as at present, 2½%, we are ready." I infer from the letter that the payment of royalty must have been commenced before the issue of any patent, presumably, in the expectation of thereby facilitating the progress of negotiations with Burt, and insuring his aid and counsel in our efforts to develop this new business. It is my clear recollection that both Mr. Yale and myself felt much doubt as to the success of this venture in a new field of work, and greet need of the advice of some one who possessed a familiarity with the mode of conducting the postal business and a knowledge of the relations of postmasters and post offices to the Government. On all these points we were entirely ignorant, while General Burt was intimately familiar with them. We believed our success in the project of creating a business in lock boxes hinged almost entirely upon the manner in which it was presented to the Government and the public. Our negotiations with General Burt were conducted on our side almost wholly with the view of securing for the company the benefits of General Burt's experience and advice; for this reason we were
equally ready to interest him in our success, whether his pro-
151 posed patent was obtained or not, and hence also the synonymous employment of the terms royalty and commission as applied to the payments to him.

These payments, as I have previously stated, were continued a very short time; they had ceased entirely long prior to the date of my letter to the Postmaster General; moreover, they were made upon all sales of boxes, whether to the Government or individuals; as a fact most of them, I think, were upon sales to private parties, and were thus in no sense "a commission for securing Government orders;" the statement in my letter to the Postmaster General is evidently intended to mean that no one outside of our company had any interest of any kind "in any orders with which we may be favored by the Government;" that statement was strictly and entirely true.

X Q. 58. In your last answer you say the payments to Burt "were made upon all sales of boxes, whether to the Government or individuals;" I understand that to mean that such payments were made whether or not the sales were brought about by Burt's instrumentality; is that so?

A. Yes, with the possible exception of Richmond, Virginia, I recall no office from which we received orders for boxes through Burt's direct agency. We endeavored long, but without success, to induce him to work for us in this direction, and commenced the payment

of this royalty or commission without waiting for him to earn it, in the hope of thereby stimulating him to active work. The payments I have referred to were made in this way, and I believe covered all sales of boxes made by us during the period covered by the statement which accompanied our payment to Burt.

X Q. 59. And you call or consider such payments as that a commission, do you?

A. I do; it is precisely the nature of the transaction in which a manufacturer or merchant pays an agent or salesman for effecting a sale of goods.

152 X Q. 60. Is not this true, without regard to your personal understanding or interpretation, that as between you and Burt the payments were made as and for a royalty for the use of his invention until after the dissolution of the interference and until the patent was ordered to issue on Yale's application?

A. This payment was never regarded by us as a royalty for any use of Burt's alleged invention. On the contrary, it was always distinctly considered by us as simply the best or most expedient means of securing Burt's interest and advice, which, for the reasons above stated, we thought would be of great value to us.

X Q. 61. In your answer to cross-question 57 you stated payments to Burt had ceased entirely long prior to the date of your letter to the Postmaster-General (December 12th, 1871); when did such payments cease?

A. I think they ceased at or soon after the time of Mr. Yale's retirement, in June, 1870. I can give the exact date by a reference to our books.

X Q. 62. Are you positive that they had ceased before the date of your letter to the Postmaster General (December 12, 1871)?

A. That is my belief.

X Q. 63. Will you swear it positively that the fact was so?

A. As it is a matter of record, I would prefer to consult the books, but I am firmly under impression that the fact was as I have stated.

X Q. 64. Did you not, subsequent to that date, render statements to Burt in which you credited him with sums of money on account of the sales of boxes?

A. I think not.

X Q. 65. Will you swear you didn't?

A. I make the same reply as to cross-question 63.

153 X Q. 66. You have referred to a suit against the Johnson Rotary Lock Company; was there more than one such suit?

A. There were several.

X Q. 67. There was one based on the original patent which was not prosecuted to a decree, was there not?

A. I think so.

X Q. 68. There was one based on the first reissue which was not prosecuted to a decree, was there not?

Objected to, as all proceedings in the suits referred to are matters of record in the clerk's office.

Question withdrawn.

X Q. 69. From "J. B. Yale, letter No. 3," of December 6, 1867, it appears that Burt had sent a section of boxes to the Yale & Winn Company. Your witness, Tyler, says he saw such a section of boxes which he was told came from Boston. Do you know what became of that section?

A. I do not know; my connection did not commence until the following year.

X Q. 70. Do you know when the Bramble circulars or either of them, which you have put in evidence, were first circulated?

A. The one with illustration colored to indicate a frontage entirely of metal was issued, I think, in 1870 or 1871 and the other circular a year or two earlier.

X Q. 72. Referring again to section of boxes sent by Burt to Yale & Winn Company, and assuming it. construction to be as indicated in Moore's deposition, who says the ttachment was by screws, am I to understand from your direct examination that you consider that to be an inoperative structure; and, if so, in what sense do you use the word inoperative?

A. I regard it as inoperative, because the divisions between the openings in the Moore Exhibit are so narrow that if drilled
154 for screws they would be nearly cut in two and their strength thereby dangerously impaired; moreover, if thus attached they could be quickly removed by the use of a screw-driver, and the contents of the boxes thus stolen. My practical experience in such work has shown also that screws thus inserted in the thin edges of the boxes soon work loose and cease to hold; for all these reasons the construction referred to would fail to operate to produce a post-office box of the necessary degree of safety.

X Q. 72½. At that time, December, 1867, was not the method of attachment used on the letter boxes of the New York post office, as shown in "Defendant's Exhibit James No. 1," a well-known substitute for and equivalent of the method of attachment by screws?

Objected to as incompetent and not cross-examination.

A. I think not. The method of fastening shown in the "Exhibit James No. 1" was invented, I believe, by two of the employees of the Johnson Rotary Lock Company, by whom I also think it was patented. Its sole object, as I learned afterwards from the inventors, was to enable the Johnson Company to evade our patent, the claims of which, as it then stood, was thought to be restricted to the particular method of attaching the metal fronts to the wood-work by means of flanges and rivets.

X Q. 73. You say "invented;" do you mean to say that, in your opinion as an expert, the making of the fastenings shown in the "James Exhibit Boxes No. 1" was an invention?

Same objection.

A. I referred to it simply as one of several devices which were from time to time adopted by the Johnson Company in their efforts to evade our patent, most of which devices were patented. I
155 believe that this was one of the devices so patented, and I assumed that, if patented, it embodied an invention.

X Q. 74. Question repeated.

A. I think there is, perhaps, some measure of invention in the combination of the two frames secured by a single bolt with the wood-work constructed to permit the bolt to be tightened and secured from the rear, although I am not sure that this particular device was one of those patented, as I have stated.

Adjourned to May 2, 1883, at 11 a. m.

N. Y., *May* 2, 1883—11 a. m.

Present: Counsel as before.

Further adjourned to May 9, 1883, at 11 a. m., for the further examination of the witness Towne.

JOSEPH GUTMAN, JR., *Examiner.*

N. Y., *May* 9, 1883—11 a. m.

Present: Mr. Betts, counsel for complainant, and Mr. G. E. P. Howard, assistant U. S. attorney, counsel for defendant.

Cross-examination of the witness HENRY R. TOWNE continued:

X Q. 77. In your answer to cross-question 57 you stated
156 that the payments to Burt had ceased long prior to the date of your letter to the Postmaster General (December 12 1871). You were asked at the last session when such payment ceased, and stated that you could give the exact date by reference to your books. You will now please state the exact date such payments ceased.

A. I have caused a search of our books to be made and find copies of two statements rendered to Burt, showing the allowance to him on our sales of lock boxes. The first of these statements covers the period from October 14, 1869, to December 31, 1869. The second statement covers the period from January 1 to June 30, 1870. As I find no later statement, I believe the latter date, June 30, 1870, to be the time when we ceased rendering such accounts to Burt and making payments to him.

X Q. 78. Has your search been of such a character as to enable you to state positively that the payments to Burt by your company or any person or persons interested in said Company ceased on June 30, 1870?

A. I believe it has.

X Q. 79. Are you now willing to swear positively that the fact was so?

A. It was, to the best of my knowledge and belief.

X Q. 80. Will you swear positively that you did not, subsequent to that date, render statements to Burt in which you credited him with sums of money on account of the sale of boxes?

A. Such is my present belief, and I feel quite confident that the fact is as I have stated. I cannot say more positively without myself making a critical examination of our books and records.

X Q. 81. Then you are not positive?

A. On the contrary, I feel very sure of it.

Redirect:

157 R. D. Q. 82. About June 30, 1870, was there any change in your relations to General Burt with reference to his claims to be the inventor of metallic front lock boxes?

(Objected to as immaterial, irrelevant, and incompetent at this stage of the case.)

A. It was at that time, I think, that Burt assigned to us his entire interest in such alleged invention.

Complainant's counsel offers in evidence certified copies from the files of the Patent Office of the two assignments from William M. Burt to the Yale Lock M'f'g Co., dated July 13, 1870. They are marked "Exhibit Burt Assignments, J. G., Jr., examiner."

(Same objection to the introduction of these assignments.)

R. D. Q. 83. In your letter of July 2, 1870, just previous to these assignments, you speak of believing that it had been agreed that the Yale application should be withdrawn and the Burt patent assigned as soon as issued. After you had purchased all Burt's possible interest in his said applications, did you take any further advice upon the legality of the proposed course; and, if so, with what result, and what did you do?

(Same objection.)

A. I consulted frequently and fully with our counsel regarding this matter; at that time the entire interest in both Yale's and Burt's applications had passed into our hands, so that it was immaterial to us in which name the patent issued, and our sole desire was to put the case into the best and strongest condition possible; to this end, and by advice of our counsel, it was decided to seek the grant of the patent upon the application of Yale.

158 R. D. Q. 84. A letter was offered in evidence by the defendant, marked "Defendant's Exhibit J. B. Yale No. 3" and signed "Yale & Winn M'f'g Co., J. B. Yale, Tr." Please state whether Yale & Winn Manufacturing Company was the same corporation as the Yale Lock Manufacturing Company, or in any way connected with it.

Same objection.

A. It was not the same corporation, nor was there any connection between the two. The Yale Lock Manufacturing Company acquired by purchase from third parties sundry machinery, tools, etc., which had previously belonged to the Yale & Winn Manufacturing Company, but they were in no sense the legal successors of the last-named company.

R. D. Q. 85. In your answers to the 72, 73, and 74 cross-questions you referred to the method in use in some of the New York post-office boxes of connecting adjacent metallic frames to the wood-work of the boxes and in contact with each other by means of bolts, the heads of which overlapped adjacent frames and could be tightened and secured from the rear. Do you mean to imply by anything that

you have said in those answers that the adoption of this modified form of connecting the fronts to the wood-work and to each other enabled the users of such modified form of fastening to dispense with the substance of the Yale invention?

Same objections, and also because the question should be confined to the Yale patent.

A. By no means. They still employed essential and important elements of the Yale invention, namely, the continuous metallic frontage formed by a series of metal frames and doors, combined with a series of wooden pigeon holes, so as to enclose and protect the
159 front edges of the latter. At that time the Johnson Company supposed that Yale's claim was restricted to a particular method of fastening the metal fronts to the wood-work, and the device referred to in the question was one of several which they, at different times, adopted to evade what they conceived to be Yale's claims. In my comments on this particular device I mean merely that it may embody some invention as to a particular kind of bolting and means of tightening the same.

Recross:

R. X Q. 86. Did Mr. Burt ever own any interest in the Yale Lock Manufacturing Company?

A. Not the slightest.

R. D. Q. 87. Was he ever connected therewith?

A. No.

R. D. Q. 88. Then how is it that you state in your letter to the Postmaster General (December 12, 1871) that you never offered postmasters a commission for securing Government orders?

A. The statement referred to is evidently in the present tense, and therefore strictly correct. Our arrangement had terminated some time before, and with this exception we never offered any postmaster any commission on Government orders. Even the commission to Burt was not "on Government orders" alone, but generally upon all orders, from whomever received.

R. D. Q. 89. With reference to the assignments from Burt to the Yale Lock Manufacturing Company the consideration stated is "ten dollars in hand paid;" was there any other consideration that you know of?

A. None that I remember, except the understanding that if Mr. Burt would give us the advice and assistance we desired we would continue the commission or allowance to him on boxes sold.

HENRY R. TOWNE.

Sworn to before me—

JOSEPH GUTMAN, JR., *Examiner.*

160 COMPL'T'S EXH. JAMES' STIPULATION. J. G., Jr., Ex'r. Feb. 28, '82.

United States Circuit Court, Southern District of New York.

YALE LOCK MANUFACTURING COMPANY *vs.* THOMAS L. JAMES.

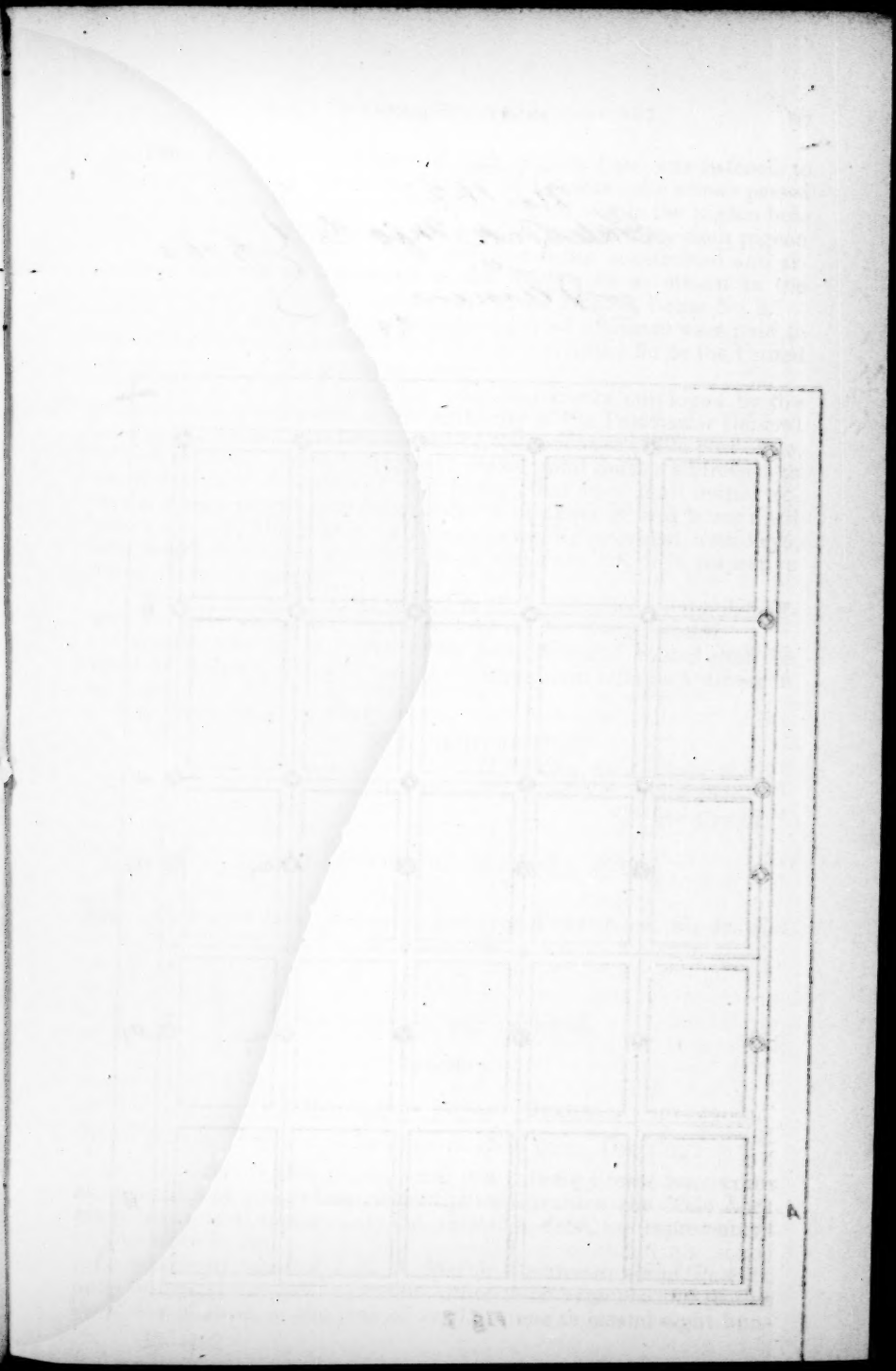
It is hereby stipulated that the defendant was postmaster of the United States at the city of New York from July 1, 1879, to about April 1, 1881.

That the post office and its appurtenances at said city are, and were during said period, the property of the United States.

That among such appurtenances during said period were forty-five hundred and seventy-nine lock boxes with metallic fronts and doors and wooden box portion open at the rear; the wooden portion formed a series or bank of connected pigeon holes; each pigeon hole was provided with its front and door, as shown by the model marked Exhibit "Defendant James' Exhibit Boxes No. 1;" that said pigeon holes were, during said period, arranged in square or nearly square sectional banks of several hundred boxes each; that in each sectional bank the metallic fronts, one for each pigeon hole, were arranged in both horizontal and vertical series, with their edges abutting (as shown in Fig. 2 of the drawing hereto annexed, the fastening being at "*a y*" "*a y*" of said drawing), in such way that their
161 metallic doors and door frames made a continuous metallic frontage (with the exception hereinafter noted) towards the space in said post office open to the public, and the wooden portion forming a solid connected bank of pigeon holes; that of each of said sectional banks of several hundred pigeon holes was surrounded with a wooden ornamental moulding; that at about the middle of each vertical edge of each door frame (as at "*a y*" "*a y*" in Fig. 2 of the drawing hereto annexed) there was a triangular hole, which, with the corresponding hole in the adjoining door frame, made a rectangular hole, through which the metal fastening bolt, completely filling such hole, was passed, the heads of said bolts overlapping the contiguous edges of adjoining metallic fronts, as shown in said model and in said drawing at "*a y*," and the bolt itself passing through the wooden partition between the adjoining pigeon holes and being secured at the back thereof within the post-office room by a nut screwed upon the end of the bolt.

That of said 4,579 boxes there were rented by the United States, through the defendant as postmaster, to divers persons: During July, August, and September, 1879, 3,857 boxes; during October, November, and December, 1879, 3,913 boxes; during January, February, and March, 1880, 3,931 boxes; during April, May, and June, 1880, 3,862 boxes; during July, August, and September, 1880, 3,885 boxes; during October, November, and December, 1880, 3,888 boxes; during January, February, and March, 1881, 3,930 boxes.

That besides these 4,579 metallic-front lock boxes there were also among the said appurtenances of the post office at least 100 more boxes constructed substantially as those above described, excepting



No. 162.
Yale Lock Mfg. Co. } p. 163
v.
James

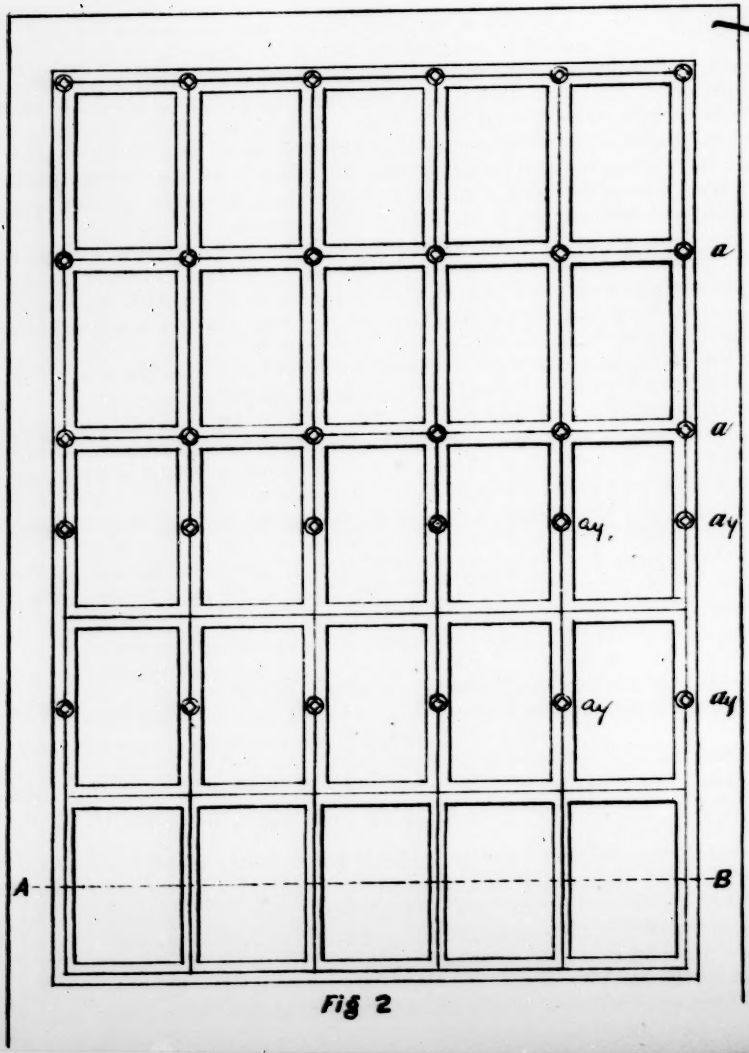


Fig 2

that the metal front and door of each pigeon hole was fastened to the wood-work by means of flanges and screws; the screws passed through the flanges of the metal front within the pigeon hole
162 into the partitions of the wooden pigeon hole, each pigeon hole with its metal front and door being constructed and arranged and the front fastened to the wood-work as shown in the model marked Exhibit "Defendant James' Exhibit Boxes No. 2."

That all of the box rents during the period aforesaid were paid to the defendant as postmaster and by him accounted for to the United States as part of the postal revenue.

That in said rented boxes the post-office clerks employed by the defendant as postmaster, under authority of the Postmaster General and paid by the United States out of the revenues of the post office, placed at divers times during said period mail matter addressed to or to the care of renters of said boxes; that such mail matter remained, according to the usual order of business, in said boxes until taken away by the renters, who were severally provided with keys, wherewith they were able to unlock the doors of their respective boxes from the outside.

That said boxes were not placed in said post office by the defendant, but were placed there and paid for by the United States.

That the number of boxes in the post office and rented shall be open to further inquiry in case the complainant obtains a decree in its favor.

New York, Dec. 28, 1881.

S. L. WOODFORD,
U. S. Att'y, for Def't, S. B. C.
BETTS, ATTERBURY & BETTS,
Sol's for Comp't.

(Here follows diagram marked p. 163.)

164 COMPL'T'S EXH. REISSUED LETTERS PATENT. J. G., Jr., Ex. Feb. 28, '82.

(2–175.)

DEPARTMENT OF THE INTERIOR.

(Vignette.)

UNITED STATES PATENT OFFICE.

To all persons to whom these presents shall come, Greeting:

This is to certify that the annexed is a true copy from the records of this office of the reissue letters patent granted the Yale Lock Manufacturing Company July 1st, 1879, No. 8783, for improvement in post-office boxes.

In testimony whereof I, E. M. Marble, Commissioner of Patents, have caused the seal of the Patent Office to be hereunto affixed this third day of June, in the year of our Lord one thousand eight hun-

dred and eighty-one, and of the Independence of the United States the one hundred and fifth.

[SEAL.] E. M. MARBLE,
Commissioner.

165 THE UNITED STATES OF AMERICA.

(Vignette.)

Reissue No. 8783.

To all to whom these presents shall come:

Whereas the Yale Lock Manufacturing Company of Stamford, Connecticut, assignee of S. N. Brooks, administrator of L. Yale, Jr., deceased, said assignee having presented to the Commissioner of Patents a petition praying for the reissue of letters patent for an alleged new and useful improvement in post-office boxes, for which letters patent were issued to said Silas N. Brooks, as administrator, dated September 19, 1871; the same surrendered and new letters issued to him, dated July 9, 1872; which second letters were surrendered and new letters issued to said assignee, dated April 24, 1877; which last letters having been surrendered, the same have been cancelled and new letters ordered to issue to it on an amended specification, a description of which invention is contained in the specification of which a copy is hereunto annexed and made a part hereof, and having complied with the various requirements of law in such cases made and provided; and

Whereas, upon due examination made, the said claimant is adjudged to be justly entitled to a patent under the law:

Now, therefore, these letters patents are to grant unto the said The Yale Lock Manufacturing Company, its successors or assigns, for the term of seventeen years from the nineteenth day of September, one thousand eight hundred and seventy-one, the exclusive right
166 to make, use, and vend the said invention throughout the United States and the Territories thereof.

In testimony whereof I have hereunto set my hand and caused the seal of the Patent Office to be affixed, at the city of Washington, this first day of July, in the year of our Lord one thousand eight hundred and seventy-nine, and of the Independence of the United States of America the one hundred and third.

[SEAL.] A. BELL,
Acting Secretary of the Interior.

Countersigned:
H. E. PAINE,
Commissioner of Patents.

167 UNITED STATES PATENT OFFICE.

THE YALE MANUFACTURING COMPANY OF STAMFORD, CONNECTICUT, assignee of S. M. Brooks, administrator of L. Yale, Jr. (deceased).

Improvement in Post-Office Boxes.

Specification forming part of Letters Patent No. 119,212, dated September 19, 1871; reissue No. 4963, dated July 9, 1872; reissue No. 7625, dated April 24, 1877; reissue No. 8783, dated July 1, 1879. Application filed May 23, 1879.

To all whom it may concern:

Be it known that Linus Yale, Jr. (deceased), late of Shelburne Falls, in the county of Franklin and State of Massachusetts, during his lifetime invented a new and useful improvement in post-office boxes; and the Yale Lock Manufacturing Company, assignee of the entire right and title to said invention, does, by its president, hereby declare that the following is a full, clear, and exact description thereof sufficient to enable others skilled in the arts to understand, make, and use the same, reference being had to the accompanying drawings, forming part of this specification, in which—

Figure 1 is an elevation taken from the front or delivery side of a series of boxes. Fig. 2 is a vertical section through the same, and Fig. 3 is a front elevation of a single box frame with the door open.

168 This invention consists in an improvement in the construction of post-office boxes, and its chief feature is the combination of a tier of pigeon holes made of wood with a continuous frontage of metal, such frontage consisting of doors and their frames, which latter cover the ends of the boards which form the pigeon holes. A series of wooden pigeon holes open at the rear and covered at the front or on the outside by a permanent glass front is very old, and such a series was used for post-office boxes and in hotels as a receptacle for keys, cards, letters, &c. There has also been in use a series of wooden pigeon holes, each provided at one end with a door, as described in the patent granted to Jacob Beidler May 28, 1866; but in this patent the door is described as hinged to the wood, and the construction is consequently insecure, as an ordinary pocket knife or small chisel will, even in inexperienced hands, suffice to cut away the wood or pry off the door so that the boxes may be entered.

Pigeon holes made of iron or other metal are difficult to construct and very costly; but such pigeon holes, each provided with an ordinary metal door, would be sufficiently secure. Such a degree of security at a comparatively low cost is attained by covering the front of a series of wooden pigeon holes with a continuous metallic frontage—that is, a frontage which presents a continuous surface of metal, or, in other words, a surface which covers the ends of the wooden pigeon holes in such manner that those portions of the wood to which the metallic frames are attached cannot be attacked when

the doors making part of the frontage are closed. In constructing Yale's invention the body of the boxes or the series of pigeon holes is to be made of wood in any usual manner, and the fronts thereof, viz., the doors and their frames, are to be made of iron or other suitable metal.

169 Each door frame is of such size that it aids in covering the ends of the wooden partitions that form the pigeon holes to which it is applied, and these frames (see Fig. 1) are of such size and shape that where a series of them are combined with a series of pigeon holes they cover the whole of the ends of the wood.

Each door frame is a plate of metal, *a a*, which, when in place, overlaps a part of the ends of the wood-work surrounding the pigeon hole, the outside of the frame inclosing a greater area than the orifice of the pigeon hole, and each frame has an ear, *b b*, which enters the pigeon hole; but this ear may be either continuous or notched out at intervals. The door is of iron or other metal, solid at top and having an opening, *e*, below, in which a plate of glass is secured and is hinged to the frame as at *c c*. It is preferable to locate rods, *f f*, behind the plate so as to prevent the introduction of a hand if the glass be broken, and so to form and hinge the door that when shut it enters within the frame so that it cannot be lifted from its hinges when shut.

When the frames are all in place each frame is riveted or bolted to the wood-work to fasten it thereto, and is also riveted or bolted to its four neighbors to secure the frames to each other. (See *h h*, Fig. 2.) Thus each frame is secured to the wood-work so that it cannot be removed till the rivet or the wood-work is cut away or broken.

When all the frames are in place a continuous metallic frontage protecting the wood-work is presented upon the outside of the series of boxes—that is, the side where the public can approach the boxes.

Each door has a lock attached to it, the bolt of which is actuated through the intervention of an arm, *k*, in the manner and for the purposes set forth in a patent granted for the invention of

170 Linus Yale, Jr., on the 24th day of October, 1871, No. 120,177.

An iron door in an iron frame is not claimed as of Yale's inven tion, as such doors have been used in safe vaults and for furnaces.

What is claimed as the invention of said Linus Yale, Jr. (deceased), is—

1. The combination, substantially as specified, of a series of metallic door frames and doors with a series of wooden pigeon holes, whereby a series of post-office boxes with a continuous metallic frontage is formed.

2. The combination, substantially as described, of a series of wooden pigeon holes with a series of metallic door frames and doors and with rivets or bolts which attach the frames to the wood-work, whereby a continuous metallic frontage secured to the wood-work of pigeon holes is obtained.

3. The combination, substantially as described, of a series of wooden pigeon holes with a series of metallic door frames and doors

172.

No. 162
Yale Lock Mfg. Co. } p. 172.
v
James

L. YALE, Jr., dec'd.

S. H. BROOKS, Adm'r, Assignor to THE YALE LOCK MANUFACTURING CO.

Post-Office Box.

No. 8,783. Reissued July 1, 1879.

Fig. 1.

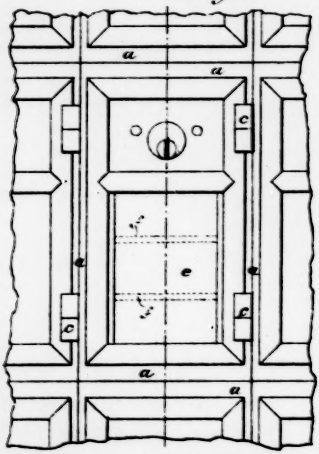


Fig. 2.

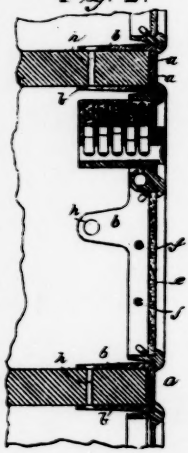
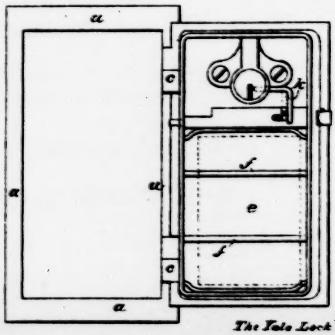


Fig. 3.



WITNESSES

Wm A. Stanley

Geo W Burke

INVENTOR

The Yale Lock Manufacturing Co
Assignees of Lewis Yale Jr dec'd

By their Attorneys

Baldwin Hopkins & Peyton

and with rivets or bolts which attach the frames both to the woodwork and to each other, the combination being substantially such as described.

4. The combination of a metallic door with a glass panel and with a frame to which the door is hinged, said frame being so constructed as to cover a part of the ends of the wooden partitions forming pigeon holes and being applied thereto, the combination being substantially as specified.

5. The combination of a post-office box or pigeon hole, open at the rear, with a metallic frame and door to protect the front end of it.

In testimony that the said company claims the foregoing
171 it hereunto affixes its hand and seal this 14th day of May, A. D. 1879.

THE YALE LOCK M'F'G CO., [L. S.]
By HENRY R. TOWNE, *President.*

Witnesses:
SCHUYLER MERRITT.
FRANKLIN UNDERHILL.

(Here follows diagram marked p. 172.)

173 COMPL'T'S EXH. DISCLAIMER. J. G., Jr., Ex'r. Feb. 28, '82.

(2–175.)

DEPARTMENT OF THE INTERIOR.

(Vignette.)

UNITED STATES PATENT OFFICE.

To all persons to whom these presents shall come, Greeting:

This is to certify that the annexed is a true copy from the files of this office of the disclaimer, filed November 29th, 1880, in the matter of the reissue letters patent granted the Yale Lock Manufacturing Company July 1st, 1879, No. 8783, for improvement in post-office boxes.

In testimony whereof I, E. M. Marble, Commissioner of Patents, have caused the seal of the Patent Office to be hereunto affixed this thirtieth day of June, in the year of our Lord one thousand eight hundred and eighty-one, and of the Independence of the United States the one hundred and fifth.

[SEAL.] E. M. MARBLE, *Commissioner.*

174 $10 M. *Disclaimer.*

To the Commissioner of Patents:

Your petitioner, The Yale Lock Manufacturing Company of Stamford, Connecticut, hereby respectfully represent as follows:

I. On the 1st day of July, 1879, reissued letters patent of the United States were granted to your petitioners, The Yale Lock Manufacturing Company, as assignee, by mesne assignments, of Linus Yale, Jr.,

for an improvement in post-office boxes, No. 8783, and your petitioners are now the sole and exclusive owners of said letters patent.

II. The circuit court of the United States for the district of Connecticut, by an opinion filed on the 29th day of June, 1880, in a suit therein pending between your petitioners and the Scovill Manufacturing Company, sustained the validity of the said letters patent, except the fourth and fifth claims thereof, which claims the said court stated in said opinion were improperly included in said reissued patent.

III. By order of said court in said suit, dated the 6th day of November, 1880, the said Yale Lock Manufacturing Company has been required to disclaim the fourth and fifth claims of said reissued letters patent for the reason set forth in said opinion filed June 29th, 1880.

IV. Your petitioners further represent that they have, therefore, reason to believe that said fourth and fifth claims were included in said letters patent by mistake, but they allege that said claims were so included and made in said reissue without any fraudulent or deceptive intention, they then verily believing, and now believing,

175 that said Linus Yale, Jr., was the first and original inventor of the inventions described in said fourth and fifth claims.

Your petitioners, therefore, for the purpose of complying with the requirements of law and with the said order of said court, do hereby enter their disclaimer to the fourth and fifth claims of said letters patent, reissue No. 8783, such claims being those parts of the said inventions of Linus Yale, Jr., patented as aforesaid, which your petitioners do not choose to claim or hold by virtue of said reissued letters patent.

Witness the signature and corporate seal of the said Yale Lock Manufacturing Company this eighteenth day of November, 1880.

[L. S.] THE YALE LOCK M'F'G CO.,
By HENRY R. TOWNE, *P't.*

Witnesses:
E. D. OGDEN, JR.
SCHUYLER MERRITT.

Ex'd: S. P. P., H. M. L.

176 COMPL'T'S EXH. SCOVILL OPINION. Feb. 28, '82. J. G., Jr., Ex'r.

UNITED STATES OF AMERICA, *District of Connecticut,* } ss:

I, Edwin E. Marvin, clerk of the circuit court of the United States for the district of Connecticut, do certify that the annexed paper is a true copy of the original opinion in the matter of Yale Lock Manuf'g Co. *v.* Scovill Manufacturing Co., on file in said court.

In testimony whereof I have set hereto my name officially and the seal of said court, at Hartford, in said district, this 27th day of February, A. D. 1882. E. E. MARVIN, *Clerk.*

Opinion of the Court. Filed June 29, 1880.

Circuit Court of the United States, District of Connecticut.

YALE LOCK MANUFACTURING CO.

vs.

SCOVILL MANUFACTURING CO.

SHIPMAN, *D. J.:*

This is a bill in equity based upon the alleged infringement of reissued letters patent No. 8783, dated July 1, 1879, which
177 was issued to the plaintiff as assignee of Silas N. Brooks, administrator of Linus Yale, Jr., for an improvement in post-office boxes. The original patent was issued to said Brooks, as administrator, on September 19, 1871, and has been reissued three times.

The post-office boxes which were in use before the date of the invention were either a series of wooden pigeon holes, each box having a permanent glass front, or a series of wooden pigeon holes, each box having a wooden door in front furnished with a lock and key. The contents of the first-named kind were inaccessible to the lessee of the box until he was waited upon by a clerk. The latter kind was not economical of space and was not considered safe.

In May, 1867, General William L. Burt, then postmaster of Boston, conceived the idea of a series of wooden boxes, finished with metallic doors and frames for each box, with the rest of the wooden front covered or veneered with a continuous metal casting. He caused a plan to be prepared of a box in the Boston post office, which plan clearly showed his idea. A casting of the metallic front was made from this plan and was delivered to General Burt, and was sent to the plaintiff to be fitted with doors and locks. This continuous metallic frame or front was discarded on account of its actual or supposed impracticability, and in its stead Mr. Yale invented the improved box front for a series of boxes, which was subsequently patented by his administrator, and with which the Boston post office was supplied. So far as is disclosed by the evidence, the Burt box frame was never used in a post office, and was merely experimental. It originated the invention, but there is no evidence which can justify a finding that Burt was the inventor.

The invention is thus described in the original patent: "This invention relates to an improvement in the construction of the fronts of post-office boxes, and consists in making said fronts, includ-
178 ing the doors and box frames, of metal, and in securing the frames to the wooden pigeon holes by rivets connecting the frames with each other at the top, bottom, and sides. The body of these boxes is to be made of wood in the usual manner, namely, a series of pigeon holes, but the front of the box and the door frame are made of iron or other suitable metal. Each door frame or box front is so made that it aids in covering the edge of the wooden partitions or pigeon holes, and is connected with the other frames above, below, and on each side of it in such a manner that the

frames make a continuous frontage, no part of which can be removed (from the outside) without pulling down other parts and breaking the wood-work, so that a surreptitious removal of the front of any box in order to get possession of its contents is practically impossible. Each frame made, as before stated, of metal, has all around it a flange, *a a*, which protects the outside of the wood-work. The sides of the frames *b b* enter and fit closely against the wood forming the pigeon holes, and may be continuous or notched out at intervals, and each frame has attached to it one leaf or two or more hinges, *c c*. The door is of iron, solid at the top, where the lock *d* is attached, and having an opening, *e*, below in which a plate of glass is secured. I prefer to locate rods, *f f*, behind the plate to prevent the introduction of a hand if the glass be broken, and so to form the door that when shut it enters within the frame (see *g g*) so that it cannot be lifted from its hinges. When the frames are all in place each frame is riveted through the wood-work to its four neighbors (see *h h*, figure 2), and thus a continuous iron frontage is formed. Each door has a small spring bolt, *i*, and a lock, *d*, is attached to it, the two operating together and forming, in the hands of the postmaster, a perfect safeguard against all entrance to the box by means of the key, and is more particularly set forth in my application for a patent therefor made — equal date with this."

179 The claims of the original patent were as follows:

"1. The combination of several box frames with each other and with pigeon holes, as described, by means of rivets passing through the frames and the wood-work entering between said frames, the combination being substantially as described. 2. The above, in combination with the flanges making part of the frames and protecting and enclosing the exterior of the wood-work, substantially as set forth."

From the history of the art and the language of the specification it appears that the invention consisted in a tier or series of metallic doors and metallic door frames in combination with a series of metallic doors and metallic door frames in combination with a series of wooden pigeon holes for post-office boxes, said series of door frames being so constructed with relation to the wood-work and so connected with each other that the frames make a continuous frontage, no part of which can be removed on the outside without pulling down other parts and breaking the wood-work. The described method by which the frames were fastened to the wood-work and were connected with each other was by fitting the sides of the frames, provided with ears or lugs, closely against the inside of the pigeon holes and by riveting each frame through the ears within the pigeon holes to the wood-work and to the four neighboring frames. The claims follow the specification in making this method of construction a necessary part of the invention. The history of the art shows that the actual invention was broader than the patent. The invention was not simply an improvement upon metallic fronts, but Yale was the first inventor of a practicable metallic front. By the patent his invention was limited to a particular method of construction or its equivalent, viz: The frames must be riveted to each

other through the wood-work, so that if a rivet simply riveted
180 or fastened the frames to the wood-work without fastening them to each other (the flanges of the frames being sufficiently wide to cover the wood-work, and in sufficiently close juxtaposition to repel entrance to the box from outside), the principle of the invention would be preserved and its substantial advantages would be retained by a very simple modification of the patented device. Instead of a single rivet uniting the adjoining frames to each other one or two rivets could be used, which should fasten the frame to the wood-work either from the inside or outside of the frame, and although the structure could be more easily broken, yet practically the frames would be so connected to each other by close juxtaposition and tightly-fitting joints that the substantial advantages of the invention would be retained.

A reissue was therefore desirable and it was important to so enlarge the specification by amendment as to describe an invention of broader scope than that specified in the original patent, if such amendment could be made without invalidating the reissue by the introduction of new matter. In the last reissue the invention is described as follows:

"This invention consists in an improvement in the construction of post-office boxes and its chief feature is the combination of a tier of pigeon holes made of wood with a continuous frontage of metal, such frontage consisting of doors and their frames, which latter cover the ends of the boards which form the pigeon holes. A series of wooden pigeon holes, open at the rear and covered at the front or on the outside by a permanent glass front, is very old and such a series was used for post-office boxes and in hotels as a receptacle for keys, cards, letters, etc. There has also been in use a series of wooden pigeon holes, each provided at one end with a door, as described in the patent granted to Jacob H. Beidler May 28, 1866, but in this patent the door is described as hinged to the wood
181 and the construction is consequently insecure, as an ordinary pocket knife or small chisel will, even in inexperienced hands, suffice to cut away the wood or pry off the door so that the boxes may be entered.

"Pigeon holes made of iron or other metal are difficult to construct and very costly, but such pigeon holes, each provided with an ordinary metal door, would be sufficiently secure.

"Such a degree of security at comparatively a low cost is attained by covering the front of a series of wooden pigeon holes with a continuous metallic frontage—that is, a frontage which presents a continuous surface of metal; or, in other words, a surface which covers the ends of the wooden pigeon holes in such a manner that those portions of the wood to which the metallic frames are attached cannot be attacked when the doors making part of the frontage are closed. In constructing Yale's invention the body of the boxes or the series of pigeon holes is to be made of wood in any usual manner, and the fronts thereof, viz., the doors and their frames, are to be made of iron or other suitable metal.

"Each door frame is of such size that it aids in covering the ends of the wooden partitions that form the pigeon holes to which it is applied, and these frames (see figure 1) are of such size and shape that where a series of them are combined with a series of pigeon holes they cover the whole of the ends of the wood.

"Each door frame is a plate of metal, *a a*, which, when in place, overlaps a part of the ends of the wood-work surrounding the pigeon hole, the outside of the frame enclosing a greater area than the orifice of the pigeon hole, and each frame has an ear, *b b*, which enters the pigeon hole; but the ear may be continuous or notched out at intervals. The door is of iron or other metal, solid at top and having an opening, *e*, below, in which a plate of glass is secured and is hinged to the frame as at *c c*. It is preferable to locate rods
182 *f f* behind the plate so as to prevent the introduction of a hand if the glass be broken and so as to form and hinge the door that when shut it enters within the frame, so that it cannot be lifted from its hinges when shut.

"When the frames are all in place each frame is riveted or bolted to the wood-work to fasten it thereto, and is also riveted or bolted to its four neighbors to secure the frames to each other. See *h h*, figure 2. Thus each frame is secured to the wood-work so that it cannot be removed till the rivet or the wood-work is cut away or broken.

"When all the frames are in place a continuous metallic frontage protecting the wood-work is presented upon the outside of the series of boxes—that is, the side where the public can approach the boxes.

"Each door has a lock attached to it, the bolt of which is actuated through the intervention of an arm, K, in the manner and for the purpose set forth in a patent for the invention of Linus Yale, Jr., on the twenty-fourth day of October, 1871, No. 120,177.

"An iron door in an iron frame is not claimed as of Yale's invention, as such doors have been used in safe vaults and for furnaces."

It will be seen that the specification of the reissue makes the invention to consist of two parts: First, a metallic frontage of doors and their frames, the latter covering the ends of the boards which form the pigeon holes; and, second, the riveting or bolting of each frame to its four neighbors to secure the frames to each other. The important question in the case is whether this specification enlarges the invention by the introduction of new matter, and the reissue is therefore rendered void. The reissue describes the invention in broader terms than were used in the original specification or in the original claims, and therefore putting a narrower construction upon the words "applied for."

The reissue describes a broader invention than was
183 originally applied for, because the claims and specifications were harmonious, but it describes the invention which the history of the art and the patent shows should have been applied for in the same invention which, aided by the light which is thrown upon the original patent by the knowledge of the state of the art, we can see formed the subject of the original specification, but was there cramped within too narrow bounds. There is more matter in the reissue than was contained in the original, and it is matter which

presents the invention as consisting of two separate and independent features, whereas by the original it was presented as consisting of those two features in combination; but the original imperfectly described the invention which was really made, though it correctly described the invention which was embraced in the claim. Is such matter new matter within the meaning of the statute?

The principles by which this question is to be decided have been laid down in a recent decision of the Supreme Court, as follows: "These reissues, being granted in 1872, were subject to the law as it then stood, being the act of July 8, 1870, the fifty-third section of which (reproduced in section 4916 of the Revised Statutes) relates to the matter in question. It seems to us impossible to read this section carefully without coming to the conclusion that a reissue can only be granted for the same invention which formed the subject of the original patent of which it is a reissue. The express words of the act are 'a new patent for the same invention;' and these words are copied from the act of 1836, which in this respect was substantially the same as the act of 1870.

"The specification may be amended so as to make it more clear and distinct; the claim may be modified so as to make it more conformable to the exact rights of the patentee, but the invention must be the same. So particular is the law on this subject that it
184 is declared that 'no new matter shall be introduced in the specification.' This prohibition is general, relating to all patents; and by 'new matter' we suppose to be meant new substantive matter, such as would have the effect of changing the invention or of introducing what might be the subject of another application for a patent.

"The danger to be provided against was the temptation to amend a patent so as to cover improvements which might have come into use or might have been invented by others after its issue. The Legislature was willing to concede to the patentee the right to amend his specification so as fully to describe and claim the very invention attempted to be secured by the original patent, and which was not fully secured thereby in consequence of inadvertence, accident, or mistake, but was not willing to give him the right to patch up his patent by the addition of other inventions, which, though they might be his, had not been applied for by him, or if applied for had been abandoned or waived. For such invention he is required to make a new application, subject to such rights as the public and other inventors may have acquired in the meantime." The court also quote, with apparent approbation, the remarks of Mr. Justice Grier in Goodyear *vs.* Day, partially reported in 2 Wall., Jr., 283. Goodyear's patent of 1844 claimed only the process of vulcanizing india-rubber, and inadvertently omitted to claim the exclusive use of the product. In 1840 it was surrendered and two new patents were issued, one for the process and the other for the composition. The validity of the reissue came before Judge Grier. He decided that both patents were for the same invention, and in reply to the objection that the latter patent claimed more than the original he said: "If the latter patent is for precisely the same invention, art, or

discovery as that described in the first, the objection that it claims more is a mistake of fact. If the last patent differs from the first only in stating more clearly and definitely the real principles
185 of the invention, so that those who wish to pirate it may not be allowed to escape with impunity through the imperfection of the language used in the first, there has arisen one of the cases for which it was the intention of the act of Congress to provide, and the objection is worthless in point of law." Powder Co. *vs.* Powder Works, 98 U. S., 126.

I understand that the Supreme Court in the case cited and in other cases intend to declare that in a reissue the same and only the same invention which was attempted to be secured in the original patent, but which was there imperfectly stated, and was not fully secured through inadvertence, accident, or mistake, can be restated, so that the principles or details of the invention may be presented clearly and accurately; but that other inventions of the patentee or modifications of the patented invention which had not been attempted to be secured or had not been applied for cannot be embraced in a reissue, but must be the subject of a new application, and that "courts should regard with jealousy and disfavor any attempt to enlarge the scope of an application once filed or of a patent once granted, the effect of which would be to enable the patentee to appropriate other inventions made prior to such alterations." Railway Co. *vs.* Sayles, 97 U. S., 554.

But if the patentee has made a palpable mistake and has limited his real invention by a misstatement of its principles, so that he is about to lose the fruit of his labor, he should be permitted to restate and, if need be, enlarge his specification, so as to include the same invention, which was plainly the subject of but was not fully secured by the original patent, although literally the enlarged invention is one which he did not apply for in his original specification, because that specification, by a misstatement of his actual invention, applied for a narrower patent than he was entitled to have.

186 As thus explained there is no substantive new matter in the reissued specification. The claims of the reissued patent are as follows:

First. The combination, substantially as specified, of a series of metallic door frames and doors with a series of wooden pigeon holes, whereby a series of post-office boxes with a continuous metallic frontage is formed.

Second. The combination, substantially as described, of a series of wooden pigeon holes with a series of metallic door frames or doors, and with rivets or bolts which attach the frames to the woodwork, whereby a continuous metallic frontage, secured to the woodwork of pigeon holes, is obtained.

Third. The combination, substantially as described, of a series of wooden pigeon holes with a series of metallic door frames and doors, and with rivets or bolts which attach the frames both to the woodwork and to each other, the combination being substantially such as described.

Fourth. The combination of a metallic door with a glass panel

and with a frame to which this door is hinged, said frame being so constructed as to cover a part of the ends of the wooden partition forming pigeon holes, and being applied thereto, the combination being substantially as specified.

Fifth. The combination of a post-office box or pigeon hole open to the rear with a metallic frame or door to protect the front end of it.

The fourth and fifth claims are admitted to be for a single box, and not to be for a series of the elements. They are, in my opinion, void.

The invention was not, in fact, for a post-office box with a metallic door and frames. It was for a series of metallic doors and
187 door frames with a series of wooden pigeon holes, said frames forming a continuous metallic front.

The scope and object of the invention was to provide a safe and economical set of boxes; and although it is necessary to make one box before a series can be made, each box was described and was made solely with relation to a tier or series of boxes; and if a single box was Yale's invention, it would be in violation of the principles which have been quoted to include it in the reissue. The first claim is for a series of metallic doors and metallic door frames, with a series of wooden pigeon holes, forming a continuous metallic frontage, substantially as described, frames and wood-work being fastened together in some suitable manner.

The second claim contains the limitation that the means of securing frames to wood-work is by rivets or bolts. The third claim contains the limitations of the first claim of the original patent, and is not alleged to have been infringed.

As thus construed, there is no question in regard to the infringement of the first and second claims. The defendant's boxes are a series of separate and complete wooden boxes with metallic doors and metallic door frames, the flanges of the door frames being so wide that a continuous metallic frontage is formed, and the frames being closely fastened to the front and sides of the wood-work. When arranged in a series the boxes are secured to each other in this way: Each box is provided on both sides with vertical grooves and on the top and bottom with transverse grooves. When the boxes are placed in position—*i. e.*, side by side, and one above another, wooden pins are placed in these grooves, and thus the boxes are keyed or fastened together. The unlawful claims introduced into the reissue it is proper to disclaim. O'Rielly *vs.* Morse, 15 How., 62; Schillinger *vs.* Gunther, 16 O. G., 905.

Let there be an interlocutory decree for an injunction and
188 for an account of profits and damages as respects the first and second claims of the patent, but without costs.

FREDERICK H. BETTS AND CAUSTEN BROWNE,
For the Plaintiff.
CHARLES R. INGERSOLL,
For the Defendant.

COMPL'T'S EXHIBIT NATIONAL LOCK ORDER. J. G., Jr., Ex'r, February 8, 1882.

At a circuit court of the United States held in and for the southern district of New York, at the court-house in the city of New York, on the 29th day of March, 1879.

Present: Hon. Samuel Blatchford, circuit judge.

THE YALE MANUFACTURING CO.

vs.

THE NATIONAL LOCK MANUFACTURING CO. *et al.*

A motion for preliminary injunction having been made herein, and the same coming on to be heard on the amended bill of complaint and affidavits on the part of complainants, and due proof of service of copies thereof on the defendants, The National Lock Manufacturing Company, and no one appearing for the said defendants, the National Lock Manufacturing Company:

189 On motion of complainants' solicitors it is ordered that a preliminary injunction issue out of and under the seal of this court enjoining and restraining the defendants, The National Lock and Manufacturing Company, and their officers, clerks, agents, servants, and workmen from making, using, or vending to others to be used, any post-office boxes or fronts for post-office boxes, as heretofore constructed by said defendants, containing or embodying the inventions described and claimed in the first claim of the reissue letters patent No. 7623, set forth in the bill, and in the first claim of reissued letters patent No. 7624, set forth in the bill, and in the six claims of reissued letters patent No. 7625, set forth in the bill, or from otherwise infringing said claims of said letters patent or either of them in any way whatsoever.

[SEAL.] SAM'L BLATCHFORD.

A copy.

JOSEPH M. DEUEL, *Clerk.*

190 COMPL'T'S EXHIBIT CHAMBERS' DECREE. J. G., Jr., Ex'r. February 28, 1882.

At a stated term of the circuit court of the United States for the eastern district of New York, held in and for the said district, at the court-house, in the city of Brooklyn, on the 9th day of April, 1878.

Present: Hon. Charles L. Benedict, district judge.

THE YALE LOCK MANUFACTURING COMPANY
vs.
JOHN L. CHAMBERS, Doing Business as The Johnson Rotary Lock Company. } In Equity.

This cause having come on to be heard at this March term of this court upon the proceedings and the proofs taken on the part of the complainant herein, and after due proceedings had, and the defendant having failed to comply with the terms of the order entered in

this cause on the 11th day of March, 1878, allowing him further time for the taking of testimony herein, and not having filed a bond in $6,000, as required by said order, no one appearing in opposition thereto, it is ordered, adjudged, and decreed that the letters patent of the United States issued to Jacob Beidler, of Lincoln, Illinois, dated the 28th day of August, 1866, No. 57464, and by him assigned to the complainant herein and reissued to said complainant on the 24th day of April, 1877, as No. 7623 and the said reissue thereof are good and valid in law.

191 That the letters patent of the United States issued to Silas N. Brooks, as administrator of the estate of Linus Yale, Jr., of Shelburne Falls, Massachusetts, dated the 19th day of September, 1871, No. 119,112, and reissued to said Silas N. Brooks, as administrator, on the 9th day of July, 1872, as No. 4963, and thereupon duly assigned to the complainant herein and reissued to said complainant at the request of said administrator on the 24th day of April, 1877, as No. 7625, and the reissue thereof, No. 7625, are good and valid in law.

That the letters patent of the United States issued to William H. Bramble, of Decatur, Illinois, dated the 3d day of April, 1866, antedated the 30th day of March, 1866, No. 53562, and by him assigned to the complainant herein and reissued to said complainant on the 24th day of April, 1871, as No. 7624, and the said reissue thereof are good and valid in law, each of said patents and each of the respective reissues thereof being for "an improvement in post-office boxes."

That the said Jacob H. Beidler, Linus Yale, Jr., and William H. Bramble were respectively the first and original inventors and discoverers of the inventions described and claimed in said several letters patent issued for their inventions respectively and in the specifications annexed thereto, and that the Yale Lock Manufacturing Company, the complainant, is the exclusive owner of the said reissued letters patent.

That the defendant, John L. Chambers, doing business as the Johnson Rotary Lock Company, has infringed upon each and all of said reissued letters patents and upon the exclusive rights of the complainant under the same—that is to say, by making, using, and vending to others to be used, since the reissue of said respective letters patent, without right or license from the complainant, certain post-office boxes substantially as described in said letters patent and the respective reissues thereof, and has also violated the rights

192 of said complainant by offering and threatening to infringe said letters patent.

And it is further ordered, adjudged, and decreed—

That the complainant do recover of the defendant the profits, gains, and advantages which the said defendant has derived, received, or made by reason of the infringement of the complainant's patents, as set forth in the bill of complaint, by any manufacture, use, or sale, and that said complainant do also recover any and all damages it has sustained by reason of any infringement of said letters patent by the defendant.

And it is hereby referred to B. Lincoln Benedict, Esq., as master of this court, to take and state the account of said gains, profits, and advantages and to assess such damages and to report thereon with all convenient speed; and the defendant is hereby directed and required to attend before said master from time to time as required, and to produce before him such books, papers, and documents as relate to the matters at issue, and to submit to such oral examination as the master may require.

And it is further ordered, adjudged, and decreed—

That a perpetual injunction issue out of and under the seal of this court enjoining and restraining the defendant and his associates, clerks, agents, servants, and workmen from, directly or indirectly, making or causing to be made, using or causing to be used, or vending to others to be used, in any manner any post-office boxes made or constructed as have been heretofore used by the defendant containing or embodying any of the inventions described and claimed in said reissued patents, to wit:

In the said Beidler patent:

1. A post-office delivery box open at one end for the insertion of mail matter and closed at the other by a door secured by a key lock, substantially as and for the purpose described.

193 2. The combination of a post-office mail delivery box open at one end for the insertion of mail matter and closed at the other, and by a door provided with a key lock and a fastening device, by means of which the post-office officials on the inside can permit or prevent access to the interior of the box from the outside at will without the use of a key, substantially as described.

3. In combination with a post-office lock box, a locking lever capable of being operated by a key from without pivoted to the box and extending to the rear so as to be readily reached and operated by the postmaster from within, and a corrugated locking plate secured to the inside of the box door, whereby the postmaster can open the door without the use of a key, and can prevent it from being opened by a key from without, substantially as set forth.

4. In combination with a post-office lock box, a locking lever capable of being operated by a key from without pivoted to the box and extending to the rear so as to be readily reached and operated by the postmaster from within, and an inclined face or projection, substantially as described, on the inside of the box door, against which the locking lever strikes to start the door open, substantially as set forth.

5. In combination with a post-office lock box, a locking lever capable of being operated by a key from without pivoted to the box and extending to the rear so as to be readily reached and operated by the postmaster from within and an alarm bell, the whole so arranged that the turning of the key to unlock the door will cause the bell to be struck by the lever, substantially as set forth.

6. In combination with a post-office lock box, a locking lever capable of being operated by a key from without pivoted to the box and extending to the rear so as to be readily reached and oper-

194 ated by the postmaster from within, and a vibrating tag for

indicating to the postmaster the box that has been unlocked, substantially as set forth.

In the said Bramble patent:

1. A pigeon hole open at one end so that letters may be deposited in it and provided at the other end with a glazed door mounted on proper hinges so that the letters which are in the box may be delivered or taken out of that end to which the door is applied when such door is open, the combination being substantially such as described.

2. In combination with a pigeon hole open at one end and provided at the other end with a glazed door mounted upon proper hinges, a latch or fastening contrivance substantially such as described, whereby the door may be held shut on the inside, thus preventing the renter of the box or other person from opening the box and taking out letters until the postmaster from the inside unlatches the door.

3. In combination with a pigeon hole opening at one end and provided with a sash door at the other end, as described, the contrivance by which the postmaster can open the door from the inside.

4. In combination with a pigeon hole open at one end and closed by a sash door at the other end, both a latch or fastening contrivance and a contrivance substantially as described, for partially opening the door from the inside, the combination being substantially such as herein specified.

In the said Yale patent:

1. As a new article of manufacture a metallic front for post-office lock boxes, consisting of a frame and door suitably hinged together and provided with a lock for controlling said door from the outside, the said front being adapted to fit and close one end of the box, the other end of which is open for the insertion of mail matter, substantially as specified.

195 2. The combination, substantially as specified, of several door frames and doors with post-office boxes, whereby a continuous metallic frontage is formed.

3. The combination, substantially as specified, of two or more metallic frames and doors with post-office boxes, said frames having flanges which protect and inclose the front edges of the pigeon hole.

4. The combination, substantially as specified, of two or more metallic frames and doors with post-office boxes, the frames connected together by means of rivets passing through them and through the wood-work of the pigeon hole.

5. The combination, substantially as specified, of a metallic door provided with a glass panel and a metallic pigeon hole frame to which the door is hinged.

6. The combination of a post-office box open at the rear end and metallic frame secured to the front end of it, substantially as specified.

Or from infringing said letters patent in any way whatsoever.

And it is further ordered, adjudged, and decreed that the complainant do recover of the defendant its costs of this suit, and that

the question of increase of damages and all further questions be reserved until the coming in of the master's report.

CHAS. L. BENEDICT.

EASTERN DISTRICT OF NEW YORK, *ss:*

I, B. Lincoln Benedict, clerk of the circuit court of the United States for the eastern district of New York, do hereby certify
196 that the foregoing is a true copy of an original decree on file and remaining of record in my office.

In testimony whereof I have caused the seal of the said court to be hereunto affixed, at the city of Brooklyn, in the eastern district of New York, this 9th day of May, in the year of our Lord one thousand eight hundred and eighty-two, and of the Independence of the United States the one hundred and sixth.

[L. S.] B. LINCOLN BENEDICT, *Clerk.*

"COMPLAINANT'S EXHIBIT J. B. YALE LETTER." M'ch 28, '83. J G., Jr., Ex'r.

FEB. 4TH, '70.

Gen. W. L. Burt, P. M. Boston.

DEAR SIR: I have until to-day been unable to get an opinion by our counsel of the advisability or safety of the arrangement proposed in regard to patent for post-office locks and boxes. He says it will be very unsafe to allow the patent to issue to any one not the inventor, inasmuch as with our application as proof of our claim any one so disposed can call upon us to testify and perhaps break our own patent if we prove to have been the original inventors; so no course now remains but to proceed with the examination, which is to take place to-morrow, I think, but which, if so disposed, I wish you would get postponed, and write us your views of the matter as it now stands and give us any suggestions you have to make.

Please let us hear from you, with some idea of time at which you will return to Washington.

Yours truly, JNO. B. YALE, JR.

197 DEFT'S EXHIBIT J. B. YALE LETTER No. 1. April 27, 1883. J. G., Jr., Ex'r.

Yale Lock Manufacturing Company, Linus Yale, Jr., president.

Works at Stamford, Conn.; offices and salesroom, 1 Barclay St., N. Y.

Henry R. Towne, sec. and m'f'g manager; John B. Yale, treasurer.

NEW YORK, 29*th March*, 1870.

Gen. Wm. L. Burt, P. M. Boston, Mass.

DEAR SIR: We have not heard from you since our last concerning patent, the papers for which can be ready for your signature in a few hours; this matter should delay no longer, and if you are still willing to make an assignment of it in its issue to us, with exclusive

right to manufacture, paying you same royalty as at present—2½ %—we are ready. Please advise us by return mail how the matter stands.

Yours truly, JNO. B. YALE, *Treas'r.*

198 DEFT'S EXHIBIT J. B. YALE LETTER No. 2. April 27, 1883. J. G., Jr., Ex'r.

Works at Stamford, Conn.; office and salesroom, No. 1 Barclay St., N. Y.

Henry R. Towne, president; John B. Yale, treasurer.

Yale Lock Manufacturing Company, exclusive manufacturers under the patents of the late Linus Yale, Jr.

NEW YORK, 21*st May*, 1870.

Gen. W. L. Burt, P. M. Boston, Mass.

DEAR SIR: I am in rec'pt of your favor of the 19th, and note contents.

Our solicitor is instructed to make a duplicate of my father's application for you to sign, and only awaits the return of the copy I sent for your inspection, which was the only one he had; so if you will forward it to me at once I will have the papers prepared at once.

Yours, in haste, JNO. B. YALE, *Tr.*

DEFT'S EXHIBIT J. B. YALE LETTER No. 3. April 27, 1883. J. G., Jr., Ex'r.

SHELBURNE FALLS, M's., *Dec.* 6, 1867.

Wm. L. Burt, P. M., Boston.

199 DEAR SIR: Your favor of 4th to hand and contents noted.

The section boxes came to hand some weeks since. We make no lock that will go on the door as you desire, but can make one, if you will order a sufficient quantity to warrant us in doing so. I have ordered a lock and frame made from which to make our estimates, and also to forward to you for your approval, and will send it to you as soon as done.

Yours truly, YALE & WINN M'F'G,
J. B. YALE, *Tr.*

DEF'T'S EXHIBIT TOWNE LETTER A. April 23, 1883. J. G., Jr., Ex'r

Works at Stamford, Conn.; office and salesroom, No. 1 Barclay St., N. Y.

Henry R. Towne, president; —— ——, treasurer.

Yale Lock Manufacturing Company, exclusive manufacturers under the patents of the late Linus Yale, Jr.

STAMFORD, *July* 2, 1870.

Wm. L. Burt, Esq., P. M., Boston, Mass.:

DEAR SIR: I have to inform you that early last month the representatives of the late Mr. Yale parted with their entire interest in this business and the patents upon which it is based, and to request that hereafter you address to the writer any communications relating to the agreement existing between us in regard to the P. O. lock-box patents, &c. Ordinary business communications should, of course, be addressed to the Co.

200 The negotiations between yourself and the Co. have been so entirely in the hands of Mr. J. B. Yale that I feel somewhat in the dark about them. I believe, however, that it was finally agreed that our application should be withdrawn in your favor, and that your patent should be assigned to us as soon as issued, we to pay you a royalty of 10 cts. per box upon all sales of lock boxes.

Mr. Renwick is now engaged upon this, but needs to know the date of your original application. Will you, therefore, be kind enough to send us this and also any other information you may have relating to the matter.

We have lately made efforts to increase our P. O. work, and with some success. Our agent was for some time at Portland endeavoring to get our order for some 2,000 boxes for the new P. O. there. The supervising architect approved of the box and made a requisition on the Dep't for them. There the matter hangs. Can you not help it on?

I have just seen the P. M. at Trenton, N. J., and hope to get in some 500 boxes there. In the next issue of the "U. S. Mail" you will notice our advertisement, which will, I hope, help us somewhat.

We have as yet done nothing in regard to the New York P. O., believing it to be as yet too soon. In this matter we shall look for your assistance, and also for your advice, in regard to the best course to pursue.

Is not the Dep't building other offices, and can you not have the lock boxes introduced in some of them? Please let me hear from you in regard to the several matters above referred to, and in the future I hope to have more frequent communications with you, and that you will co-operate with us in introducing the boxes.

We rec'd payment yesterday for the boxes furnished for Bangor P. O.

Yours truly,

HENRY R. TOWNE, *Pt.*

When will you be next in New York?

201 DEF'T'S EXHIBIT TOWNE LETTER B. April 27, 1883. J. G., Jr., Ex'r.

Works at Stamford, Conn.; office and salesroom, No. 1 Barclay St., N. Y.

Henry R. Towne, president.

Yale Lock Manufacturing Company, exclusive manufacturers under the patents of the late Linus Yale, Jr.

NEW YORK, *July* 26, 1870.

Private.

Wm. L. Burt, Esq., P. M., Boston, Mass.

DEAR SIR: Before leaving Boston I made all the necessary arrangements with Mr. Eddy for the issue of your patents, and also forwarded to Mr. Yale's administrator such papers as required his signature. These he advises me were promptly returned to Mr. Eddy, and so the whole matter is in good shape. This being the case I hope you can arrange to give us your promised assistance at an early day. As you suggested we have had a cut made of the boxes with which to head our advertisement, and will have the latter inserted in the next issue of the "U. S. Mail," of N. Y.; "Postal Record," of Chicago; "P. O. Gazette," of Washington, and will to-day send you cuts, &c., to be published in the Boston P. O. paper as you offered. We are also making two neat samples of 12 boxes each, to be sent, one to Mr. Mullett and the other to the P. O. Department. Would you advise our putting in any boxes in the Washington P. O.; if so, how many, what size, &c.? Our advertisement in last month's "Mail" has brought a number of inquiries from post-
masters. Now, what we need to make the thing go is Gov-
202 ernment patronage. Once have the box adopted by the Dep't and I am satisfied there will be a large demand for them. What can you do for us towards this? We still have no news from the Portland office, and begin to think we have lost the job. Did you write, as you spoke of doing, to ascertain just how the case stands and to try to help it on; if so, what success?

Hoping that you can give these matters early attention and that we will soon hear from you, I am

Yours truly, HENRY R. TOWNE, *Pt.*

DEF'T'S EXHIBIT TOWNE LETTER C. April 27, 1883. J. G., Jr., Ex'r.

No. 15.

Office and works at Stamford, Conn.; salesroom, No. 1 Barclay St., N. Y.

Yale Lock Manufacturing Company, exclusive manufacturers under the patents of the late Linus Yale, Jr.

Exposition, 1867, universelle. Henry R. Towne, pres't.

STAMFORD, *Dec.* 12, 1871.

Hon. Jno. A. J. Cresswell, Postmaster General, Washington, D. C.

DEAR SIR: In our interview of yesterday afternoon you asked me what else we manufacture in addition to P. O. work, and in reply to the inquiry I mail herewith our illustrated price list, &c.
203 Were it not for the delicacy which I feel about tendering any thing—no matter how small—to members of the Government, I would add that it would give me pleasure to send you anything in our line of manufacture for which you may have use. Should your decision in the lock box matter be adverse to us, you can at least call on us in this way without either your motives or ours being impugned by any one, and it will gratify me to be able in any way to testify to my appreciation of your courtesy in giving me the hearing which you did.

If a full understanding of the case is arrived at, and justice done, I am confident that the award will be made in our favor, but I also appreciate how difficult it is for you to give a matter of this kind thorough investigation without slighting other more important affairs, and, whatever the decision may be, I shall feel that it is fairly based upon such information as you have been able to consider.

I fear that I, perhaps, did not reply explicitly — your inquiry as to whether or not we have enough to ever offered P. M's a commission for securing Gov't orders for us, and desire to reiterate my statement that such is not the case, and to state further that no one unconnected with this concern has any present or prospective interest in any orders with which we may be favored by the Government.

That favoritism, whether interested or not, has been heretofore shown in the awarding of orders for this work, and that a decided preference has been felt (and shown) for our competitor, of Tammany proclivities, I am well aware, but I have full faith that in your hands a decision will be made based solely upon justice and the best interests of the public service, and this is all that we should and do desire.

If, when your decision is made, you will kindly advise me of its purport, I will deem it a favor. Aside from our pecuniary interest in this matter, we have so identified with the development of
204 the lock-box business (being the first and for a long time the

only makers of them) that it is a matter of pride with us to obtain the Government patronage. Awaiting your further action,

I am yours, very respectfully,

HENRY R. TOWNE, *Pt.*

The enclosed cut illustrates the principle of our locks. The P. O. lock has six pins.

EXHIBIT BURT ASSIGNMENT A. J. G., Jr., Ex'r.

(2-175.)

DEPARTMENT OF THE INTERIOR.

(Vignette.)

UNITED STATES PATENT OFFICE.

To all persons to whom these presents shall come, Greeting:

This is to certify that the annexed is a true copy from the records of this office of an assignment from William L. Burt to the Yale Lock Manufacturing Company, recorded in Liber H 13, page 63. Said record has been carefully compared with the original, and is a correct transcript thereof.

In testimony whereof I, E. M. Marble, Commissioner of Patents, have caused the seal of the Patent Office to be affixed this 23d day of June, in the year of our Lord one thousand eight hundred and eighty-three, and of the Independence of the United States the one hundred and seventh.

[SEAL.] E. M. MARBLE,
Commissioner.

205 Liber H 13, p. 63.

Whereas I, William L. Burt, of Boston, in the State of Massachusetts, have invented certain new and useful improvements in post-office letter boxes and have applied for letters patent of the United States of America therefor, my application having been filed in the Patent Office in March 26th, 1869:

Now, therefore, this indenture witnesseth that for and in consideration of ten dollars in hand paid, the receipt whereof is hereby acknowledged, I have assigned and set over, and do hereby assign, sell, and set over to the The Yale Lock Manufacturing Company of Stamford, in the State of Connecticut, all the right, title, and interest whatever which I now have or by letters patent would be entitled to have and possess in the aforesaid invention, the said invention being described in the specification as prepared and executed by me for the obtaining of said letters patent, the whole to be held and enjoyed by the said company and their legal representatives to the full extent and manner in which the same would have been or could be held and enjoyed by me had this assignment never been made, and I do, by these presents, authorize the Commissioner of Patents to issue the said letters patent to the said company and their legal repre-

sentatives as the assignees of my whole right and title to the same and to the new invention aforesaid.

In witness whereof I have hereto set my signature and seal this thirteenth day of July, A. D. 1870.

WM. L. BURT. [SEAL.]

Witness:
THOS. L. HARMAN.

Recorded July 27, 1870.

Ex'd: C. F., E. L. L.

206 EXHIBIT BURT ASSIGNMENT B. J. G., Jr., Ex'r.

(2–175.)

DEPARTMENT OF THE INTERIOR.

(Vignette.)

UNITED STATES PATENT OFFICE.

To all persons to whom these presents shall come, Greeting:

This is to certify that the annexed is a true copy from the records of this office of an assignment from William L. Burt to the Yale Lock Manufacturing Company, recorded in Liber H 13, page 62. Said record has been carefully compared with the original and is a correct transcript thereof.

In testimony whereof I, E. M. Marble, Commissioner of Patents, have caused the seal of the Patent Office to be affixed this 23d day of June, in the year of our Lord one thousand eight hundred and eighty-three, and of the Independence of the United States the one hundred and seventh.

[SEAL.] E. M. MARBLE,
Commissioner.

Liber H 13, p. 62.

Whereas I, William L. Burt, of Boston, in the State of Massachusetts, have invented an improvement in post-office letter boxes
207 or in locks therefor and have applied for letters patent of the United States of America therefor, my application having been filed in the Patent Office on June 16th, 1869:

Now, therefore, this indenture witnesseth: That for and in consideration of ten dollars in hand duly paid, the receipt whereof is hereby acknowledged, I have assigned and set over, and do hereby assign, sell, and set over, to the Yale Lock Manufacturing Company of Stamford, in the State of Connecticut, all the right, title, and interest whatever which I now have or by letters patent would be entitled to have and possess in the aforesaid invention, the said invention being described in the specification as prepared and executed by me for the obtaining of said letters patent, the whole to be held and enjoyed by the said company and their legal representatives

to the full extent and manner in which the same would have been or could be held and enjoyed by me had this assignment never been made.

And I do by these presents authorize the Commissioner of Patents to issue the said letters patent to the said company and their legal representatives as the assigness of my whole right and title to the same and to the new invention aforesaid.

In witness whereof I have hereto set my signature and seal this thirteenth day of July, A. D. 1870.

WM. L. BURT. [SEAL.]

Witness:
THOS. L. HARMAN.

Recorded July 27, 1870.

208 "DEFENDANT'S EXHIBIT YALE'S APPLICATION." March 6, '83.
J. G., Jr., Ex'r.

(2–175.)

DEPARTMENT OF THE INTERIOR.

(Vignette.)

UNITED STATES PATENT OFFICE.

To all persons to whom these presents shall come, Greeting:

This is to certify that the annexed is a true copy from the files of this office of the file wrapper and contents in the matter of the letters patent granted Silas N. Brooks, administrator of Linus Yale, Jr., deceased, September 19th, 1871, No. 119,212, for imp't in post-office letter boxes.

In testimony whereof I, E. M. Marble, Commissioner of Patents, have caused the seal of the Patent Office to be hereunto affixed this twenty-first day of March, in the year of our Lord one thousand eight hundred and eighty-one, and of the Independence of the United States the one hundred and fifth.

[L S.] E. M. MARBLE,
Commissioner.

To the Commissioner of Patents;

The petition of Linus Yale, Jr., of Shelburne Falls, in the county of Franklin and State of Massachusetts, respectfully repre-
209 sents that he has invented certain new and useful improvements in post-office boxes which, he verily believes, have not been known or used prior to the invention thereof by your petitioner.

He therefore prays that letters patent of the United States may be granted unto him therefor, vesting in him and his legal representatives the exclusive right to the same, upon the terms and conditions expressed in the act of Congress in such case made and provided, he having paid fifteen dollars into the Treasury of the United States and otherwise complied with requirements of said act.

And he hereby authorizes Henry B. Renwick, of No. 17 East Ninth St., New York, to act as his attorney in presenting and prosecuting this application and to receive the patent when granted.

LINUS YALE, JR.

To all whom it may concern:

Be it known that I, Linus Yale, Jr., of Shelburne Falls, in the county of Franklin and State of Massachusetts, have invented certain new and useful improvements in post-office boxes, and that the following, taken in connection with the drawings, is a full, clear, and exact description thereof. In the drawings—

Fig. first is an elevation taken from the front or delivery side of a series of boxes.

Fig. second is a vertical section through the same, and Fig. third is a front elevation of a single box frame with the door open. The body of these boxes is to be made of wood in the usual manner, namely, a series of pigeon holes, but the front of the box and the door are made of iron or other proper metal. Each door frame or box front is so shaped that it aids in covering the edge of the
210 wooden partition or pigeon holes, and is connected with the other frames above, below, and on each side of it in such manner that the frames make a continuous frontage, no part of which can be removed (from the outside) without pulling down other parts and breaking the wood-work, so that a surreptitious removal of the front of any box in order to get possession of its contents is practically impossible. Each frame made as before stated of metal has all around it a flange, *a a*, which protects the outside of the wood-work; the sides of the frame *b b* enter and fit closely against the wood forming the pigeon holes, and may be continuous or notched out at intervals, and each frame has attached to it one leaf of two or more hinges, *c c*. The door is of iron, solid at the top where the lock *d* is attached, and having an opening, *e*, below closed by a plate of glass. I prefer to locate rods, *f f*, behind the plate to prevent the introduction of a hand if the glass be broken, and so to form the door that when shut it enters within the frame, see *g' g'*, so that it cannot be lifted from its hinges.

When the frames are all in place each frame is riveted through the wood-work to each of its neighbors (see *h h*, Fig. 2d), and thus a continuous iron frontage is formed.

Each door has a small spring bolt, *i*, and a lock. I prefer to use the pin lock formerly patented by me and shown in these drawings, as the keys thereof are small, the lock comparatively safe, and as a great number of locks can be easily made, each with a different key.

The lock acts upon the bolt by means of a wire, *k*, attached to the turning parts of the lock; this wire rests against the
Oct. 13, 1869. pin or knob *l* of the bolt; when that pin is adjusted [in]* the position shown in the drawings, as the key is turned to unlock, the wire moves in the arc of circle and retracts the bolt; but if the pin be adjusted by turning it
Oct. 13, 1869. [turned]* up into the vertical slot of the bolt case, then the wire cannot come in [is out of]* contact

with it and the bolt cannot be moved by the key; instead of
211 making the pin of the bolt adjustable the wire *k* may be made so by being [or this wire may be]* so loosely secured to the turning part of the lock that it can be ad-
Oct. 13, 1869. justed [moved]* (the vertical part *k'* being turned inwards and upwards) so as not to engage with the pin or knob *l* of the bolt; when the wire is so ad-
" " " justed [moved]* the door cannot be opened from the outside even by the use of the proper key; and this contrivance is a useful one, as it prevents access to the box in case of loss of a key or in other cases when the postmaster may desire it.

Erased. [A small button accessible from the inside only or an additional bolt would produce the same result.]*

I do not claim a door partly glazed and with a lock upon it for a post-office box, nor broadly a lock so connected with a bolt that it may be disconnected from or connected with it, the latter device being common in front doors of houses.

But I do claim as my invention—

First. The combination of several box frames with each other
Erased. and with the partitions between them [pigeon holes]* as described by the means of rivets passing through the frames and the partitions intervening between the said
Sept. 6, 1869. frames [wood-work],* the combination being substantially as described.

Second. I claim the above combination in combination with the flanges making part of the frames and protecting and enclosing the exterior of the partitions [wood-work]* substantially as described.

Third. I claim a pin lock in combination with a spring bolt
Erased. [upon a door]*, by means of an adjustable connection
Oct. 13, '69. [contrivance]* substantially such as described, so that the bolt may be moved when the lock is actuated by the key and [or]* may be disconnected from the lock.

LINUS YALE, JR.

Witnesses:
JULIAN L. YALE.
JOHN H. AMES.

212 STATE OF MASSACHUSETTS, }
County of Franklin, } *ss:*

21ST SEPTEMBER, 1868.

On this day of September, 1868, before me, a notary public, personally appeared the within-named Linus Yale, Jr., and made solemn oath that he verily believes himself to be the original and first inventor of the within-described improvements in post-office

---

* Words and sentences enclosed in brackets erased in original.

boxes; that he does not know or believe the same were ever before known or used, and that he is a citizen of the United States,

[L. S.] ARTHUR MAXWELL,
Notary Public.

Endorsed: Specification, petition, and oath of L. Yale, Jr. Filed Sept. 30, 1868. Cancelled Aug. 24, 1871.

U. S. PATENT OFFICE,
WASHINGTON, D. C., *Jan.* 20, 1869.

Linus Yale, Jr., care Henry B. Renwick, Esq., 17 East 9th street, New York, N. Y.:

Please find below a communication from the examiner in relation to your application for improved post-office boxes filed Oct. 1, 1868.

Very respectfully, ——— ———,
Commissioner.

EXAMINER'S ROOM No. 1.

213 The application above referred to has been examined. The box frames covered by the first and second claims are not regarded as presenting any patentable difference from the ordinary metallic door and window frames in common use, as shown, for example, in the rejected and withdrawn cases of W. Wright for a metallic window frame and sash, filed August 1, 1846; of Russel Judson, filed Sept. 3, 1851, for a "cast-iron sash and frame," and of W. B. Treadwell, filed Aug. 29, 1855, for a shutter and door (drawings in architecture).

The first and second claims must therefore be refused.

Resp'y, WM. B. TAYLOR, *Ex.*,
Per GEORGE H. CLARKE,
2d Assist. Ex.

Endorsed: To L. Yale, Jr., Letter V 12, Jan. 20, '68.

Application of LINUS YALE, JR., imp'ts in post-office boxes. Filed Oct. 1st, 1868.

34 BEACH ST., NEW YORK, *Sept. 1st*, 1869.

Hon. Commissioner of Patents.

SIR: You are hereby authorized and respectfully requested to permit Mr. Wm. D. Baldwin to act for the writer in the above matter.

Yours respectfully, S. N. BROOKS,
Administrator of Estate of Linus Yale, Jr.,
By his att., E. S. RENWICK.

Endorsed: Linus Yale, Jr., imp'ts in post-office boxes. Pow. of att'y to W. D. Baldwin. Patent Office, U. S. A., Sept. 6, 1869.

214 Before the Hon. Commissioner of Patents.

Application of LINUS YALE, JR., imp'ts in post-office boxes. Filed Oct. 1st, 1868.

Whereas Linus Yale, Jr., did, in his lifetime, file an application in the Patent Office for a patent for the above-stated improvements, and has since deceased; and whereas I, Silas N. Brooks, of Bernardston, Mass., have been duly appointed administrator of the estate of said Yale: Now, I hereby appoint and request the Commissioner of Patents to recognize Edward S. Renwick, of New York, to be my true and lawful attorney, for me and in my name to prosecute the said application for and receive the patent; to alter and amend the descriptions, drawings, and claims previous to the issue of the patent; to withdraw the application; to appoint one or more substitutes under him or in his stead, and the same to revoke at his pleasure, and generally to do every act and thing which I might rightly do to obtain the said patent, hereby ratifying and confirming each and every act he and his substitutes may do for that purpose.

Bernardston, Mass., Aug. 12, 1869.

SILAS N. BROOKS,
Administrator of Estate of Linus Yale, Jr.

Witness:
ARTHUR MAXWELL.

COMMONWEALTH OF MASSACHUSETTS, *Franklin*, } *ss:*

12TH, A. D. 1869.

Then personally appeared Silas N. Brooks and acknowledged the above instrument to be his free act and deed.

Before me—
[L. S.] ARTHUR MAXWELL,
Notary Public.

Endorsed: Power of attorney. Filed Aug. 19, '69. Patent Office, Aug. 19, 1869.

215 WASHINGTON, *Sept.* 6, 1869.

To the Commissioner of Patents:

SIR: Amend the post-office box specification of Linus Yale, Jr., filed Oct. 1, 1868, by inserting in the first clause of claim, after "wood-work," the words "intervening between the said frames." A re-examination is asked on the amended claim.

Respectfully, LINUS YALE, JR.,
By his att'y, WILLIAM D. BALDWIN.

None of the references cited in the official letter show the combination claimed by Yale. Judson shows simply a single cast-iron frame and door without wood-work, and shows neither "pigeon holes," "box frames," or "rivets," as claimed by Yale. The same remarks apply to the other references.

Respectfully, WM. D. BALDWIN, *Att'y.*

Endorsed: Amendment. Linus Yale, Jr. Post-office box. Amendment, Sept. 6th, 1869. Patent Office, U. S. A., Sept. 6, 1869.

10th. U. S. PATENT OFFICE,
WASHINGTON, D. C., *Sept.* 10, 1869.

Linus Yale, care of Wm. D. Baldwin, W., D. C.:

Please find below a communication from the examiner in relation to your application for imp't in post-office letter boxes, filed Oct. 1, 1868.

Very respectfully,
——— ———,
Commissioner.

216 EXAMINER'S ROOM NO. 1.

In the matter above referred to, as the third claim, which embraces a lock applicable to doors generally, was regarded on examination as probably presenting a patentable novelty, it was hoped that the two claims objected to would have been withdrawn from this application. As the first and second claims will probably involve further discussion, and as they relate to features entirely unconnected, in design and operation, with the subject of the third claim, a decision of the case must now be insisted on, in order to restrict the claims to a proper unity of invention. The examination of the case is accordingly suspended for that purpose.

WM. B. TAYLOR, *Examiner.*

Endorsed: To Linus Yale. Division required Sept. 8, 1869.

WASHINGTON, *Oct.* 13, 1869.

To the Commissioner of Patents:

SIR: Amend the post-office letter-box application of Linus Yale, filed Oct. 1, 1868, as follows:

P. 3, L. 8.	Erase "in" and insert "adjusted to" before "the position."
" " " 11.	Erase "turned" and insert "adjusted by turning it."
" " " 13.	Erase "is out of" and insert "cannot come in."
" " " 14 & 15.	Erase "as this wire may be" and insert "instead of making the pin of the bolt adjustable, the wire *k* may be made so by being."
" " " 11.	Change "moved" to "adjusted."
P. 3, 20.	Change "moved" to "adjusted."
217 P. 3, L. 25.	Erase "A."
" " "	Erase lines 26, 27, and 28.
P. 4, L. 9, 10.	Erase pigeon holes and insert "the partitions between them."
" " " 12.	Erase "wood-work" and insert "partitions entering between the said frames."
" " " 17.	Change "wood-work" to "partitions."
" " " 20.	Erase "upon a door."
" " " 21.	Change "a contrivance" to "an adjustable connection."
" " " 24.	Change "or" to "and."

The above amendments, it is hoped, will obivate the objections of the official letter of Sept. 10, 1869. In declining to make the division required by the office attention is respectfully called to the decision of the examiners-in-chief in the matter of the application of A. B. Graham for a harvester, patented April 7, 1868, decision dated Mar. 14, 1868, and to the argument filed on that appeal.

A re-examination is requested.

Respectfully, LINUS YALE, JR.,
By his att'y, WM. D. BALDWIN.

Endorsed: Amendment. Linus Yale, Jr. post-office box. Amendment, Oct. 13, '69. Patent Office, Oct. 13, 1869, U. S. A.

U. S. PATENT OFFICE,
WASHINGTON, D. C., *Oct.* 16, 1869.

Linus Yale, Jr., care of Wm. D. Baldwin, W. D. C.:

218 Please find below a communication from the examiner in relation to your appl'n for imp't in P. O. boxes, filed Sept. 30, 1869.

Very respectfully, —— ——,
Commissioner.

EXAMINER'S ROOM, No. 1.

In the matter above referred to the amendment and communication filed the 13th inst. have been considered. For the reasons assigned in the official letter of Sept. 10th a division of the case must be a second time insisted on before the application is re-examined on its merits.

WM. B. TAYLOR, *Examiner.*

Endorsed: To Linus Yale. Division required. Oct. 16, '69.

Appeal to the Commissioner in Person.

IN THE UNITED STATES PATENT OFFICE.

In the Matter of the Application of LINUS YALE, JR., for a patent for post-office letter boxes. Filed Oct. 1, 1868.

WASHINGTON, *Nov.* 29, '69.

To the Commissioner of Patents.

SIR: In this application there are three clauses of claim, two of these being to the construction of the boxes and one to the lock combined therewith. The examiner requires a division of the application, and has twice refused to examine the case. It is

219 therefore appealed to you under rule 45 and judgment prayed. Being a point so often decided in favor of inventors heretofore, argument is deemed superfluous.

Respectfully, WM. D. BALDWIN,
Att'y for Yale.

Endorsed: Linus Yale, Jr. Post-office letter box. Appeal to the Commissioner. Patent Office, Nov. 30, 1869.

In the Matter of the Application of LINUS YALE, Jr., for letters patent for improvement in post-office boxes.

Applicant makes three claims.

Of these the first two are founded upon alleged improvements in the structure of the box and the third upon the lock. This latter claim is distinctively for "a" lock having certain peculiarities upon "a" door.

The examiner insists upon a division of the case so that the claim for a lock may be presented in a separate application before an examination of the case upon its merits.

From this decision an appeal is taken directly to me under the last clause of rule 45. (Rules, Ed. Nov., 1869.)

The case of Hogg *vs.* Emerson, 6 How., 483, has usually been relied upon as authorizing the union of several devices, machines, or improvements under a single patent. In that case letters patent had been granted covering an improvement in a spiral propelling wheel and in a capstan. This was an extreme case and the defendant contended that the patent was void.

The court say:

"The next objection is that this description in the letters thus considered covers more than one patent and is, therefore, void.

220 "There seems to have been no good reason at first, unless it be a fiscal one on the part of the Government when issuing patents, why more than one in favor of the same inventor should not be embraced in one instrument like more than one tract of land in one deed or patent of land. Phillips on Pat., 217.

"Each could be set out in separate articles or paragraphs as different counts for different matters in libels, in admiralty, or declarations at common law, and the specifications could be made distinct for each and equally clear.

"But, to obtain more revenue, the public officers have generally declined to issue letters for more than one patent described in them. (Renouard, 293; Phillips on Pat., 218.) The courts have been disposed to acquiesce in the practice as conducive to clearness and certainty; and if letters issue otherwise, inadvertently, to hold them as a general rule null. But it is a well-established exception that patents may be united if two or more included in one set of letters relate to a like subject or are in their nature or operation connected together. Phil. on Pat., 218, 219; Barrett *vs.* Hall, 1 Mason C. C., 447; Moody *vs.* Fiske, 2 Mason C. C., 112; Wyeth *et al. vs.* Stone *et al.*, 1 Story, 273.

"Those here are of that character, being all connected with the use of the improvements in the steam engine as applied to propel carriages or vessels, and may, therefore, be united in one instrument."

In Root *vs.* Ball & Davis, 4 McLean, 179, the court say: "It is objected to the plaintiff's patent that two distinct things cannot be united in the same patent. This is true when the inventions relate to two distinct machines; and the reason assigned is that it would deprive the officers of the Government of their fees and in other re-

spects would be inconvenient; but the same patent may
221 include a patent for a combination and an invention of some of the parts of which the combination consists."

The doctrine of both of these cases seems to be that while the rule which assigns distinct inventions to distinct patents is a proper one and one which the Commissioner may properly enforce, yet, if the patent actually issue, the courts will sustain it. It is certainly nowhere asserted that it is the duty of the Commissioner to include two or more inventions in one patent, but it is evidently referred to his discretion.

There are numerous cases in which it has been held that a patent once granted is to be liberally construed; that it is to be presumed that public officers do their duty; that the court will not enquire into slight defects or mere informalities in the grant of letters patent where there is a meritorious invention.

Yet it would be a grave error to found upon such decisions a rule of action for the Commissioner; for it by no means follows, because a patent has been sustained, notwithstanding certain informalities in the issue, that every succeeding patent is to exhibit the same informalities. In Tompkins *vs.* Gage, 2 Fisher, 580, it was held that the second claim of the patent under consideration was but a repetition of the first, but that "duplicity of claim" did not affect the validity of the patent. It could hardly be gravely contended, however, that upon the authority of this decision the Commissioner should encourage or permit the granting of duplicate claims.

The whole question is one of discretion in the Commissioner.

It may be conceded that it is difficult to establish any general rule for the division of inventions into separate patents which shall apply to all cases or which shall not be subject to many exceptions.

In both of the cases quoted it is suggested that the union of many inventions in one patent would deprive the Govern-
222 ment of its proper fees. This is a legitimate consideration.

A fee of $15 is now charged for examination into the novelty, utility, and patentability of an invention. This is a very reasonable charge and is much less than it would cost to make the examination in any other way. Indeed, the fees for all services in the Patent Office are less than are charged in any other country, while the service performed for the applicant by the office is much greater.

It would be unjust to the Government, to the public at large, and to other inventors to permit one of their number to present a batch of inventions for examination under a single fee, for he would receive more of the time of the examiner than he had paid for.

Another consideration which is not less important is found in the classification of the various subjects of invention and the assignment of the different classes to different examiners.

This division of labor is absolutely essential to the prompt and thorough examination of applications. It is adopted to facilitate the transaction of the public business, and the inventor himself is directly and immediately benefited by a strict adherence to it.

Any union of inventions in one patent that would seriously

impair this classification ought not to be permitted. Besides the delay and increased difficulty in making the examination if the patent covers devices which enter into two classes, the drawing, which is single, must be deposited in the portfolio of the one class and be wanting in the portfolio of the other. It may thus be overlooked in the examination of the next case.

It may, therefore, be said in general that when two or more distinct inventions are united in one application that are capable of division, and which belong to different classes or involve a double labor of examination or have no community of operation, it
223 is not only the right but it becomes the duty of the Commissioner to require the application to be divided.

The present case is one which calls for the exercise of this authority. The third claim is for a lock which is capable of general use; it belongs to a different class from the subjects of the other claims, and has no necessary connection with or dependence upon them.

The decision of the examiner in requiring a division is, therefore, affirmed.

December 9, 1869.

SAM'L S. FISHER,
Commissioner.

Endorsed: Linus Yale, Jr. Commissioner's decision on decision of claims.

Interference Cases.

DEPARTMENT OF THE INTERIOR,
U. S. PATENT OFFICE,
WASHINGTON, D. C., *Dec.* 11, 1869.

SIR: Please find below a communication concerning your application for improvement in letter box and for improvement in locks, filed the 30th day of September, 1868.

Very respectfully,

——— ———,
Commissioner.

Linus Yale, Jr., care of Wm. D. Baldwin, W. D. C.

EXAMINER'S ROOM, No. 1.

In the matter of the alleged invention above referred to
224 notice is hereby given to the applicants hereinafter named that their claims are adjudged to interfere with each other, and that a hearing will be granted them on the 5th day of February, 1870, and that the testimony of the respective parties must be closed previous to the days hereinafter specifically designated, it being understood that the party first making the inventor's oath will be deemed the first inventor in the absence of proof to the contrary.

Rebutting testimony, but no other, may be taken after the closing of the testimony-in-chief, but the same must be closed previous to the 29th day of January, 1870.

All testimony must be taken, &c., in accordance with the printed rules herewith transmitted.

The application of William L. Burt, of Boston, Mass., for improvement in the construction of post-office letter boxes was filed March 26, 1869. Attorney, R. H. Eddy, of Boston, Mass. Testimony to be closed on the second Saturday in January, 1870.

The application of William L. Burt, of Boston, Mass., for improvement in locks for letter boxes was filed June 12, 1869. Attorney as above. Testimony to be closed on the second Saturday in January, 1870.

The application of Linus Yale, Jr., embracing two independent subjects of invention interfering with the two applications above named was filed Sept. 30, 1868. Testimony for both inventions to be closed on the fourth Saturday in January, 1870.

Endorsed: To Linus Yale, Jr. Interfer. with Burt. Dec. 11, 1869.

225 (No. 1.)

U. S. PATENT OFFICE,
WASHINGTON, D. C., *Mar.* 7, 1870.

Linus Yale, Jr., care of Henry B. Renwick, 17 East 9th street, New York city:

Please find below a communication from the examiner in relation to your application for improvement in post-office boxes and locks, filed Sept. 30, 1868.

Very respectfully,

—— ——,
Commissioner.

EXAMINER'S ROOM No. 1.

In the matter of the interference between the applications of Wm. L. Burt and that of Linus Yale, the priority of invention having been decided in favor of Mr. Yale the said interference is now dissolved. A division of the claims is required before further action can be had in the case.

WM. B. TAYLOR.

Endorsed: To Linus Yale, Jr. Division required. Mar. 7, 1870.

COMMONWEALTH OF MASSACHUSETTS, *Franklin*, } *ss:*

Probate Court.

I, Chester C. Conant, register of the probate court for said county of Franklin, hereby certify that at a probate court holden at Greenfield, in and for said county, on the second day of February,
226 in the year of our Lord one thousand eight hundred and sixty-nine, Silas N. Brooks, of Bernardston, in the county of Franklin, was duly appointed administrator of the estate of Linus Yale, Jr., late of Shelburne, in said county of Franklin, deceased, intestate, and gave bond to the acceptance of the judge of said court for the due performance of said trust according to law.

I also certify that it appears by the records and files of said court that said appointment is now in full force.

In witness whereof I have hereunto set my hand and the seal of said court this thirtieth day of May, in the year of our Lord one thousand eight hundred and seventy.

[L. S.] CHESTER C. CONANT, *Register.*

Endorsed: L. Yale, Jr., Certificate of administrator's appointment. Patent Office, Jul. 20, 1870.

COMMONWEALTH OF MASSACHUSETTS, *Franklin,* } ss:

Probate Court.

I, Francis M. Thompson, register of the probate court for said county of Franklin, hereby certify that at a probate court holden at Greenfield, in and for said county, on the second day of February, in the year of our Lord one thousand eight hundred and sixty-nine, Silas N. Brooks, of Bernardston, in the county of Franklin, was duly appointed administrator of the estate of Linus Yale, Jr., late of Shelburne, in said county of Franklin, deceased, intestate, and gave bond to the acceptance of the judge of said court for the due performance of said trust according to law.

227 I also certify that it appears by the records and files of said court that said appointment is now in full force.

In witness whereof I have hereunto set my hand and seal of said court this third day of August, in the year of our Lord one thousand eight hundred and seventy-one.

[L. S.] FRANCIS M. THOMPSON, *Register.*

Endorsed: Certificate of adm'rs appointment.

To the Commissioner of Patents:

Linus Yale, Jr., having, on or about the 30th day of September, 1868, made application for letters patent for an improvement in post-office letter boxes and locks therefor, Silas N. Brooks, administrator of the estate of the said Linus Yale, Jr. (deceased), hereby appoints G. M. Plympton, of No. 195 Broadway, New York city, his attorney, with full power of substitution or revocation, to prosecute said application, to make alterations and amendments therein, to receive the patent, and to transact all business in the Patent Office connected therewith, hereby revoking any and all powers of attorney heretofore given to any person or persons whomsoever for above purposes. Signed at Bernardston, county of Franklin, and State of Massachusetts, this 31st day of July, A. D. 1871.

SILAS N. BROOKS,
Administrator of the Estate of Linus Yale, Jr., Deceased.

228 COMMONWEALTH OF MASSACHUSETTS, } ss:
Franklin, }

GREENFIELD, *Aug.* 1, 1871.

Personally came Silas N. Brooks and acknowledged the above signature to be his free act and deed.

[L. S.] WM. H. ALLEN,
Notary Public.

Endorsed: Power of att'y. Filed Aug. 24, 1871. Patent Office, Aug. 24, 1871, U. S. A.

WASHINGTON, D. C., *Aug.* 23*d*, '71.

Hon. Comm'r of Patents:

SIR: In the matter of the application of Linus Yale, Jr., deceased, for P. O. letter boxes and locks, filed September 30, 1868, I hereby cancel the specification, drawings, etc., of said application, and file instead the two accompanying specifications and drawings, being divisions of the original application, as required by the Commissioner in his decision of Dec. 9th, 1869. Comm'r's Decisions, 1869, p. 110 (printed edit.).

Very respectfully, your ob't servant,

GEO. W. ROTHWELLS,
Asso. Att'y.

Endorsed: Letter transmitting sub. specification. Filed Aug. 24, 1871. Patent Office, Aug. 24, 1871, U. S. A

229 JULY 31, 1871.

Hon. Commissioner of Patents.

SIR: Please recognize Geo. W. Rothwell, of Washington, D. C., as my associate in the matter of the application of Linus Yale, Jr., for letters patent for impr't in letter boxes and locks, filed September 20th, 1868.

Very respectfully, your obedient serv't,

G. M. PLYMTON,
Attorney for Silas N. Brooks, Adm. of Linus Yale, Jr., Deceased.

Endorsed: Patent Office, Aug. 24, 1871, U. S. A.

Petition.

To the Commissioner of Patents:

Your petitioner, Silas N. Brooks, administrator of the estate of Linus Yale, Jr., deceased (as by reference to the duly certified copy of letters of administration hereto annexed will more fully appear), prays that letters patent may be granted to him for the invention of the said Linus Yale, Jr., set forth in the annexed specification, and he hereby authorizes G. M. Plympton, of No. 195 Broadway, New York city, or his accredited agent or agents, to act as his attorneys in presenting the application and in making all such alterations or amendments as may be required, and to sign his name to the drawings.

SILAS N. BROOKS,
Administrator of the Estate of Linus Yale, Jr., Deceased.

230 To all *to* whom it may concern:

Be it known that Linus Yale, Jr., deceased, late of Shelburne Falls, in the county of Franklin and State of Massachusetts, during his lifetime invented a new and useful improvement in doors for post-office boxes, and I, Silas N. Brooks, administrator of the estate of the said Linus Yale, Jr., deceased, do hereby declare that the following is a full, clear, and exact description thereof sufficient to enable others skilled in the arts to understand, make, and use the same, reference being had to the accompanying drawings forming part of this specification, in which

Figure 1 is an elevation taken from the front or delivery side of a series of boxes,

Figure 2 is a vertical section through the same, and

Figure 3 is a front elevation of a single box frame with the door open.

This invention relates to an improvement in the construction of the fronts of post-office boxes and consists in making said fronts, including the doors and box frames, of metal, and in securing the frames to the wooden pigeon holes by rivets, connecting the frames with each other at top, bottom, and sides.

The body of these boxes is to be made of wood in the usual manner, namely, a series of pigeon holes, but the front of the box and the door frames are made of iron or other suitable metal.

Each door frame or box front is so made that it aids in covering the edge of the wooden partition or pigeon holes, and is connected with the other frames above, below, and on each side of it in such manner that the frames make a continuous frontage, no part of which can be removed (from the outside) without pulling down other parts and breaking the wood-work, so that a surreptitious re-

231 moval of the front of any box in order to get possession of its contents is practically impossible. Each frame made, as before stated of metal, has all around it a flange, *a a*, which protects the outside of the wood-work.

The sides of the frame *b b* enter and fit closely against the wood forming the pigeon holes, and may be continuous or notched out at intervals, and each frame has attached to it one leaf or two or more hinges *c c*. The door is of iron solid at top, where the lock *d* is attached, and having an opening, *e*, below, in which a plate of glass is secured. I prefer to locate rods *f f* behind the plate to prevent the introduction of a hand if the glass be broken, and so to form the door that when shut it enters within the frame (see *g g*), so that it cannot be lifted from its hinges.

When the frames are all in place each frame is riveted through the wood-work to its four neighbors (see *h h*, Fig. 2), and thus a continuous iron frontage is formed.

Each door has a small spring bolt, *i*, and a lock, *d*, attached to it, the two operating together, and forming in the hands of the postmaster a perfect safeguard against all entrance to the box by means of the key, as is more particularly set forth in my application for a patent therefor, made equal date with this.

What I claim as the invention of the said Linus Yale, Jr., deceased is:

First. The combination of several box frames with each other and with pigeon holes, as described, by means of rivets passing through the frames and wood-work, entering between the said frames, the combination being substantially as described.

Second. The above, in combination with the flanges making
232 part of the frames, and protecting and inclosing the exterior of the wood-work, substantially as set forth.

SILAS N. BROOKS,
Administrator of the Estate of Linus Yale, Jr., Deceased.

Witnesses:
G. M. PLYMPTON.
H. L. WATTENBERG.

Oath.

STATE OF MASSACHUSETTS, }
County of Franklin, } *ss:*

Silas N. Brooks, the above-named petitioner, being duly sworn, deposes and says that he verily believes the said Linus Yale, Jr., deceased, to be the first and original inventor of the improvement in doors for post office boxes described in the foregoing specification; that he does not know and does not believe that the same was ever before known or used, and that he is a citizen of the United States.

SILAS N. BROOKS,
Administrator of the Estate of Linus Yale, Jr., Deceased.

Sworn to and subscribed before — this second day of August, A. D. 1871.

[L. S.] WM. H. ALLEN,
Notary Public.

Endorsed: Silas N. Brooks, administrator, &c. Specification. Impt. in doors for post-office boxes. Filed Aug. 24, 1871. Patent Office, Aug. 24, 1871, U. S. A.

233 The fee, $15.00, original, paid on the application filed Sept. 30, '68, is intended to apply to this case.

Aug. 23, 71.

ROTHWELL,
Asso. Att'y.

Endorsed: Patent Office, Aug. 24, 1871, U. S. A.

NEW YORK, *Sept. 1st*, 1871.

Hon. Com'r of Patents.

SIR: Enclosed please find check for $20, final Gov't fee in the application of Silas N. Brooks, administrator, &c., for post-office letter boxes, allowed Aug. 29, 1871.

Please let the patent issue, and oblige,
Yours, &c., G. M. PLYMPTON, *W.*

Endorsed: Patent Office, Sept. 2, 1871.

U. S. PATENT OFFICE.

Application of Linus Yale, Jr. Filed Oct. 1st, 1868.

Contents of this file.

1. Application.
2. Of. letter, Jan. 20, 1868.
3. Power of att'y, Aug. 19, 1869.
4. Am'd't, Sept. 6th, 1869.
5. Of. letter (D), Sept. 8, 1869.

234 6. Am'd't, Oct. 13th, 1869.

7. Of. letter (D), Oct. 16th, 1869.
8. Appeal to Com'r, Nov. 30, 1869.
9. Com'r decis., Dec. 9, 1869.
10. Int. with Burt, Dec. 11, 1869.
11. Of. letter (D), Mar. 7, 1870.
12. Power of att'y, Aug. 24, 1871.
13. New spec'n, Aug. 24, 1871.
14.
15.
16.
17.
18.

34. 1868. 149.

(Class 94.

No. 119,212.

Silas N. Brooks, adm'r of Linus Yale, Jr., dec'd, of Shelburne Falls, county of Franklin, State of Massachusetts.

Post-office boxes.

Rec'd Sept. 30, 1868.
Petition, " "
Affidavit, " "
Specification, " "
2 drawings, " "
Model, Oct. 1, "
Cert. dep.
1 cash, $15, Sept. 30, 1868.
Add'l fee, cert.
" cash, $20, Sept. 2, 1871.
Examined by board Aug. 26, 1871.
Issue Grinnell, Aug. 26, 1871.

235 3 Patented, Sept. 19, 1871.

Recorded vol. —, page —.
Circular, Aug. 29, '71.

HENRY B. RENWICK, *New York.*

G. M. Plympton, 195 Broadway, N. Y. city.

Reissued July 9, 1872, No. 4963; again reissued April 24, 1877, No. 7625.

1868.

Letter (V. 1, 2), Jan. 20, 1869.
Letter D, Sept. 8, 1869.
Letter D², Oct. 16, 1869.
Division required by Com., Dec. 9, '69.
Interf. with Burt, Dec. 11, 1869.
Hearing, 1st Sat. in Feb., 1870.
Decision favorable, Feb. 24, '70.
Letter (D), Mar. 7, 1870.
Passed by B. Aug. 26, '71.

Decision by examiners-in-chief in case of William L. Burt, filed March 26, 1869; afterwards rejected on interference with Yale.

Improvement in post-office letter boxes.

236 DEFENDANT'S EXHIBIT BURT-YALE INTERFERENCE. March 8, 1883. J. G., Jr., Ex.

(2–175.)

DEPARTMENT OF THE INTERIOR.

(Vignette.)

UNITED STATES PATENT OFFICE.

To all persons to whom these presents shall come, Greeting:

This is to certify that the annexed is a true copy from the files of this office of the file wrapper and contents in the matter of the interference of W. L. Burt *vs.* L. Yale, Jr., for fastenings for post-office letter boxes.

In testimony whereof I, E. M. Marble, Commissioner of Patents, have caused the seal of the Patent Office to be hereunto affixed this twenty-first day of March, in the year of our Lord one thousand eight hundred and eighty-one, and of the Independence of the United States the hundred and fifth.

[L. S.] E. M. MARBLE,
Commissioner.

237 In the Matter of Interference, WM. L. BURT (B) *vs.* LINUS YALE, Jr., fastenings for post-office letter boxes, etc.

Before the examiner of interferences.

This case comes to hearing without any testimony having been filed by either party to the interference. In the absence of all other proof the decision must be based upon the record, in accordance with rule 56.

Linus Yale, Jr., filed his application for a patent September 30th, 1868.

The application of Wm. L. Burt was filed June 12th, 1869.

Yale being the earlier applicant, priority of invention is awarded to him.

JOHN M. THACHER,
Examiner of Interferences.

U. S. Patent Office, Febr'y 24th, 1870.

Endorsed: Wm. L. Burt (B) *vs.* Linus Yale, Jr. Fastenings for post-office letter boxes, etc. Ex'r's decision of the int'f. Recorded vol. 1, page 209. Patent Office, Feb. 24, 1870, U. S. A.

238 25. DEPARTMENT OF THE INTERIOR,
U. S. PATENT OFFICE,
WASHINGTON, *Feb'y 24th*, 1870.

SIR: You are hereby informed that in the case of interference between your claims and those of Linus Yale, Jr., for imp't in letter boxes upon which a hearing was appointed for the 5th day in February, 1870, the question of priority of invention has been decided in Yale's favor.

Copies of the decision will be furnished at the usual rates.

Yours respectfully, SAM'L S. FISHER,
Commissioner.

JOHN M. THACHER,
Examiner of Int'f's.

Wm. L. Burt, care R. H. Eddy, Boston, Mass.

505.

Endorsed: Notice of decision of int'f. W. L. Burt, (B). Feb'y 24, '70.

25. DEPARTMENT OF THE INTERIOR,
U. S. PATENT OFFICE,
WASHINGTON, *Feb'y* 24, 1870.

SIR: You are hereby informed that in the case of interference between your claims and those of Wm. L. Burt, (B), for fastenings for post-office letter boxes, etc., upon which a hearing was appointed for the 5th day in February, 1870, the question of priority of invention has been decided in your favor.

239 Copies of the decision will be furnished at the usual rates.

Yours respectfully, SAM'L S. FISHER,
Commissioner.

JOHN M. THACHER,
Examiner of Int'f's.

Linus Yale, Jr., care W. D. Baldwin, Wash'n, D. C.

506.

Endorsed: Notice of decision. Int'f. Linus Yale, Jr. Feb'y 24, '70.

223. Case B.

U. S. PATENT OFFICE.

Interference.

BURT *vs.* YALE, Jr.

Fastenings for post-office letter boxes.
Hearing February 5th, 1870.
Page 482.

240 *Interference.*

1870.

No. 223. Case B.

WM. L. BURT *vs.* LINUS YALE, Jr.

Of
County of
State of
Fastenings for post-office letter boxes.
Rec'd,
Petition,
Affidavit,
Specification,
Drawing,
Model,
Cert. dep.,
Cash,
Add'l fee cert.,
" " cash,
Examined,
Issued,
Patented, 186 .
Recorded vol. , page
Circular,
1870.

1870.

Hearing, February 5th, 1870.
Decided in Yale's favor and parties notif'd Feb'y 24th, 1870.
Ex'd: H. M. H., E. A. M.

241 Circuit Court of the United States for the Southern District of New York. In Equity.

THE YALE LOCK MANUFACTURING COMPANY

vs.

THOMAS L. JAMES.

It is hereby stated and agreed by and between the solicitors for the respective parties that at the final hearing before the circuit

judge the proceedings in the Patent Office in the matter of the application of William L. Burt, assignor to the Yale Lock Manufacturing Company, filed May 26, 1869, for letter box were offered in evidence by counsel, read and admitted by consent of the solicitors, and it is hereby stipulated and agreed that the copy thereof hereto annexed shall constitute part of the record to be sent to the Supreme Court of the United States.

(S'g'd) BETTS, ATTERBURY & BETTS,
Sol'rs for Appellants.

(S'g'd) ELIHU ROOT,
U. S. Att'y for James.

Dated New York, Oct. 14, 1884.

242 (Endorsed:) U. S. circuit court, S. D. of N. Y. Yale Lock M'f'g Co. *vs.* James. Stipulation. U. S. circuit court. Filed Oct. 15, 1884. Timothy Griffith, clerk.

242½ COMPL'T'S EXHIBIT BURT APPLICATION.

(65.)

DEPARTMENT OF THE INTERIOR,
UNITED STATES PATENT OFFICE.

To all persons to whom these presents shall come, Greeting:

This is to certify that the annexed is a true copy from the files of this office of the file wrapper, contents, and drawing in the matter of the application of William L. Burt, assignor to Yale Lock Manufacturing Co., filed March 26, 1869, for letter box.

In testimony whereof I, W. H. Doolittle, acting Commissioner of Patents, have caused the seal of the Patent Office to be hereunto affixed this twenty-seventh day of March, in the year of our Lord one thousand eight hundred and seventy-nine, and of the Independence of the United States the one hundred and third.

[L. S.] W. H. DOOLITTLE,
Acting Commissioner.

243 [Stamp: 50 cents. W. L. B., March 11, 1869. Fifty cents.]

To the Commissioner of Patents of the United States of America:

SIR: Having invented a new and useful improvement in letter boxes and executed an application for letters patent of the United States of America therefor, I do hereby appoint and request you will recognize R. H. Eddy, solicitor of patents, of Boston, in the State of Massachusetts, to be my true, sufficient, and lawful attorney, for me and in my name to attend to procuring and receiving the said letters patent, and to alter and amend my specifications, drawings, and claims, previous to the said letters patent being granted, in whatever way, manner, and extent he, the said Eddy, may consider most desirable for my interest, and to execute and deliver my papers, and generally to do and perform all such acts, matters, and things as may be necessary for the complete and effectual obtaining of the said

letters patent or for the withdrawal of any money, papers, drawings, or models connected with the application, should he at any time deem such withdrawal advisable.

In case of such withdrawal of any such money the Commissioner of Patents or the Treasurer of the United States is hereby authorized to pay to the said Eddy for me and the said Eddy is empowered to receive for me such sum of money.

Signed at Boston, in the State of Massachusetts, the 11th day of March, A. D. 1869.

WILLIAM L. BURT.

Witness:
SAMUEL N. PIPER.

To the Commissioner of Patents of the United States of America:

The petition of William L. Burt, of Boston, in the county of Suffolk and State of Massachusetts, respectfully represents that your petitioner has invented a new and useful improvement in
244 letter boxes, which he verily believes has not been known or discovered by any other person or persons prior to his invention thereof.

Your petitioner therefore desires that letters patent may be granted to him securing to him and his legal representatives, for the term of 17 years, an exclusive property in the above-mentioned invention or right to make and use it and to vend it to others, by them to be made, used, or sold, as it is described in the accompanying and written specification, your petitioner being a citizen of the United States and having paid fifteen dollars into the Treasury of the United States, and complied with all the other conditions expressed in the acts of Congress for such cases made and provided.

Signed at Boston, in the State of Massachusetts, the 11th day of March, the year of our Lord eighteen hundred and sixty-nine.

WILLIAM L. BURT.

(Amendment. March 26, '69.)

I, William L. Burt, hereby amend the accompanying specification of my improvement in letter boxes by adding after paragraph 15 or after the words "cylinder *q*," of line 19, page 3, the following, viz:

(A. Insert on page 3.)

§ 15. There is a key-hole, *t*, made through the door and opening into a key passage, *u*, formed likewise through the cylinder *q*. A series of holes, *r' r' r'*, extend vertically from the passage *u* to the upper part of the cylinder and open, respectively, into a series of cavities, *v r*, made in the upper portion *w* of the lock case. Each hole, *v*, contains a pin, *w'*, and a spring, *x*, to force it downward against one of another series of such pins inserted within the holes *r'* of the cylinder *q*.

To all persons to whom these presents may come:

Be it known that I, William L. Burt, of Boston, of the county of Suffolk and State of Massachusetts, have made a new and useful

invention, having reference to the letter-delivery boxes of
245 post offices, and I do hereby declare the same to be fully described in the following specification and represented in the accompanying drawings, of which—

Figure 1 is a front elevation of a letter box provided with my invention.

Figure 2 is a vertical, and

Figure 3 a horizontal section of it, parts of the surrounding boxes being also exhibited in such figures.

Figure 4 is a rear view of the door.

Figure 5 is a horizontal section of the door, it being taken just above the bolt carrier thereof, so as to exhibit the bolt-locking notch.

Figure 6 is a horizontal section taken through the said bolt carrier.

In the said drawings A denotes one of a series of letter boxes as used in post offices. As ordinarily arranged it has such another box against each side, as well as against each end of it, they being represented in part at B, C, D, E. They are usually made of a frame of wood and constitute a series of rectangular-shaped cavities, open in the rear. The front of each is to be provided with a metallic door, F, hinged to a metallic rectangular frame, G, which fits into the box and is provided with flanges, *a*, on its sides and ends, to overlap one-half the width of the front edge of each of the vertical and horizontal boards *b c* of which the box is composed.

From this it will be seen that each flange of each door frame abuts at its edge directly against that of another flange of another door frame, the same being as represented, so as to cover and protect with metal the front edges of the boards constituting the boundaries of each box.

By having the flange of each door frame abut against that of the next door frame, and both cover the edge of the wood overlapped by them, such wooden part of the letter box will be protected from being cut or injured by persons on the outside of the box.

Each side, as well as each end of the door frame, is furnished with a flat ear, *b'*, which extended from the side in manner as shown, is connected with the next adjacent ear of the next door
246 frame by a rivet, *c'*, going through the two and the intervening wood. Thus each door frame becomes securely connected both to the letter box and to the four or next surrounding door frames, in consequence of which an effort of a thief to pry off one door frame in order to gain access to its box, would be resisted by all the next adjacent door frames.

The hinges of the door and frame are shown at *d d*. The door has one metallic panel, *e*, and besides this it has a glass panel or pane of transparent glass, *f*, arranged within it. There is extended across this pane of glass two guards or parallel bars, *g g*, which serve not only to prevent it from becoming dirtied or soiled by letters thrown into the box, but also in case of breakage of the glass to prevent the extraction of letters from the box from the outside of the post office.

The door of cast metal, as brass for instance, is formed with a

cylindrical carrier or bolt socket, *h*, which opens through the front edge of the door, which is furnished with a circumscribing flange, *i*, to close against the door frame and cover the joints of the door when such door is closed.

A cylindrical bolt, *k*, formed with a oblique outer end as shown at *l*, is arranged within the carrier. A pin or stud, *m*, is extended from the side of such bolt, at right angles thereto, and through a slot, *n*, made horizontally in the carrier.

A locking notch, *c''*, opens out of this slot at right angles therewith. By taking hold of the pin *m* and pressing it upward into the notch the bolt will be prevented from being retracted by the bent arm *p*, which extends downwards from a cylinder or arbor, *q*, arranged within a lock case, *r*. This case is secured to the inner side of the door by two screws, G S, which go through it and screw into the door from its inside. There is on the side of the cylindrical part of the lock case a slot to receive the arm *p* and admit of its being moved through the sector of a circle by the cylinder *q*.

(Insert amendment A, March 26, 1869. 7 Hm., 16.)

The key formed as shown in side view in figure 7 and in top view in figure 8, when inserted within the key-hole and cylinder, should cause the junctions of the two series of pins to move
247 to the circumference of the cylinder *q*, in order to enable the said cylinder to be revolved by the key, or so turned as to force the bent arm against the bolt stud and effect the drawing back of the bolt, a spring, *x'*, within the bolt case serving to advance the bolt when necessary. The bolt on being shot forward will enter a hole made in the door frame, and thus will lock the door.

*[Should the lock get out of order it can be easily removed and another substituted for it. While this is being done the door may be kept bolted by simply turning the stud of the bolt up into the locking notch of the carrier; so when a party may not have paid his box rent, or the amount which may be due by him for letters, the postman by such means can prevent the box holder from opening the box door.

This invention has been practically tested by me in the Boston post office, of which I am the postmaster, and found to be of very great importance and value.

It is a perfect safeguard to letters, and prevents them from being stolen from the outside, or a thief from breaking into the box.]

(Insert amendment B, August 9, 1869.)

What I claim as of my invention in the above-described letter box and its accessories as specified, is as follows:

1. I claim connecting each door frame to that or those next adjacent to it, and to the letter box or the wood thereof by rivets or equivalents going through and arranged in them substantially as set forth.

* Erased by amendment, August 9, 1869.

2. I also claim the arrangement of the flanges of each letter box door frame, and that or those next adjacent to it, so as to abut together and cover the joint edge or edges of the wood of which the body of the box may be composed.

*[I also claim the door frame as made, as provided with the bolt case or carrier separate from the lock case, arranged and applied to it as specified.

248 I also claim the combination and arrangement of the bolt and its stud with the lock and its bent arm, constructed in manner and so as to operate substantially as specified.

I also claim the combination and arrangement of the locking notch in the bolt carrier with the bolt and its stud, and with the lock and its bent arm, constructed so as to operate substantially as explained.

I also claim the arrangement and combination of the guards *g g*, with the door, its glass panel L, and the letter-box applied thereto, as set forth.]

WM. L. BURT.

Witnesses:
J. R. SNOW.
SAMUEL N. PIPER.

STATE OF MASSACHUSETTS, } ss:
County of Suffolk. }

On this 11th day of March, A. D. 1869, personally appeared before me the above-named William L. Burt and made solemn oath that he verily believes himself to be the original and first inventor of the herein-before described invention of improvement in letter boxes, for which he solicits a patent, and that he does not know or believe the same was ever before known or used, and that he is a citizen of the United States of America.

R. H. EDDY,
Justice of the Peace.

U. S. PATENT OFFICE,
WASHINGTON, D. C., *May 15th*, 1869.

Wm. L. Burt, care R. H. Eddy, Boston, Mass.:

Please find below a communication from the examiner in relation to your application for improvement in letter boxes, filed March 26, 1869.

Very respectfully, SAMUEL S. FISHER,
Commissioner.

249 EXAMINER'S ROOM No. 1.

The application above referred to has been taken up for examination, and it is found that there is no oath as required by law. The specification is herewith returned that the omission may be supplied.

* Erase and substitute amendment C, August 9, 1869.

BOSTON, *Dec.* 2, 1869.

Hon. S. S. Fisher.

SIR: The official letter of the 27th of November, 1869, advising Mr. Wm. L. Burt that his "application for a patent for post-office letter boxes has been considered by the examiners-in-chief upon appeal, and that they reverse the former action of the office as to the first three claims and affirm it as to the fourth," has been received. In accordance with the decision I herewith forward an amendatory paper erasing the said fourth claim, and have to request that the patent may at once be allowed.

Yours respectfully, R. H. EDDY.

U. S. PATENT OFFICE,
WASHINGTON, D. C., *May* 5, 1869.

Wm. L. Burt, care of R. H. Eddy, Boston, Mass.:

Please find below a communication from the examiner in relation to your application for improvement in letter boxes, filed March 26, 1869.

Very respectfully, ——— ———,
Commissioner.

EXAMINER'S ROOM No. 1.

The application above refered to has been taken up for examination, and it is found that there is no oath, as required
250 by law. The specification is herewith returned that the omission may be supplied.

Respectfully, WM. B. TAYLOR, *Examiner*,
By GEORGE H. CLARKE, *Assistant.*

U. S. PATENT OFFICE,
WASHINGTON, D. C., *May* 24, 1869.

William L. Burt, care R. H. Eddy, Boston, Mass.:

Please find below a communication from the examiner in relation to your application for improvements in post-office letter boxes, filed March 26, 1869.

Very respectfully, ——— ———,
Commissioner.

EXAMINER'S ROOM No. 1.

The application above referred to has been taken up for examination, and it is found to embrace two distinct and independent subjects of invention, the arrangement of the lock and bolt, covered by the third, fourth, and fifth claims, being obviously applicable to other kinds of doors.

The "door frames" covered by the first and second claims are not regarded as presenting any patentable difference from the ordinary metallic door and window frames in common use, as shown, for example, in the rejected and withdrawn cases of W. Wright for a metallic window frame and sash, filed August 1, 1846; of Russel

Judson for a "cast-iron sash and frame," filed Sept. 3, 1851, and of W. B. Treadwell for a "shutter and door," filed August 29, 1855 (drawings in architecture). The meeting flanges of the latter claim involve nothing more than a mere question of fitting.

251 In regard to the third claim, nothing is more common than the provision of a bolt—separate from the lock (and operated thereby if desired) in night latches and locks for doors.

The subject of the sixth claim is a very old device, and is commonly used to protect banks and other windows.

The fourth and fifth claims (relative to the lock) might probably be allowed, if separated from incongruous claims, but the remaining claims must be rejected.

WM. B. TAYLOR, *Examiner*,
By GEORGE H. CLARKE, *Assistant*.

BOSTON, *June* 3, 1869.

Hon. Commissioner of Patents.

SIR: The official letter of May 24, 1869, in respect to the application of William L Burt for a patent for an invention having reference to letter boxes, has been received and considered.

In accordance with the letter, it has been decided to remove from the present specification the third, fourth, fifth, and sixth claims and file an additional application to cover the subjects of the fifth and sixth claims, which the official letter suggests may be allowed if separated from the others.

The petition, specification, drawings, and Treasury certificate for the fee of $15 for such additional application are herewith sent you, the model previously filed exhibiting the invention and answering for both cases.

In respect to the official objections to the first claim, I would state that it covers a special and valuable improvement by which each metallic door frame is not only connected to the wooden letter box but to either or each next adjacent metallic door frame, this causing each of the latter to operate as a means of preventing the door frame from being detached from the wooden letter-box frame.

252 It is believed that no system of post-office letter boxes has ever before been provided with a series of separate metallic door frames fastened to the letter boxes and to each other; and it is also believed that never before have such separate door frames been provided with flanges to overlap the front edges of the wooden boxes and when applied thereto to meet together so as to completely cover such in manner as described. The whole thing may be a matter of fitting, but it is fitting to a purpose, for a valuable result is accomplished by it.

Mr. Burt's improvements effect a full metallic front to a letter-box frame made of wood and thus saves the necessity of making the latter of iron and the great expense consequent to them, &c.

Mr. Burt is the postmaster of Boston and has devoted much time to perfecting the post-office boxes of this and other cities, and it is believed that he has greatly benefited the Government by his improvements which are in successful operation on the letter boxes of

this post office and are to be generally adopted in others. It is therefore hoped that on further consideration the office will be satisfied to allow patents on both of the applications.

Yours respectfully, R. H. EDDY.

I, William L. Burt, hereby amend as follows the specification of my invention having reference to post-office letter boxes:

1. By erasing paragraphs 17, 18, 22, 23, 24, and 25.
2. By adding before paragraph 19 the following:

(B. Insert on line 11, page 4.)

[Although I have hereinbefore described a locking apparatus applied to the metallic doors of the letter box, I herein intend to make no claim to it, as I have claimed it in another or additional application for a patent filed or to be filed in the Patent Office.]

By adding to the claims the following:

(C. Insert on page 4.)

[3. I also claim the combination of a frame or series of wooden letter boxes and a series of metallic door frames, as set forth.

253 4. *[I also claim the improved letter-box door, made as described, viz: with the bolt case *h*, cast in one piece with the rest of the door, and arranged with the lock panel and the glass pane, receiving opening substantially in the manner specified.]

WM. L. BURT,
By his attorney, R. H. EDDY.

BOSTON, *Sept.* 2, 1869.

Hon. Samuel L. Fisher, Commissioner of Patents.

SIR: On June 30th last I sent to the Patent Office an amendatory paper to William L. Burt's application for a patent for improvements in letter boxes, filed March 26, 1869.

On June 16th I filed case B, which covered the subjects of the fifth and sixth claims of the first application, and which the official letter of May 24th suggested might be allowed if separated from the others.

It is now nearly three months since the cases were presented to the Patent Office, and not having heard from them, I would respectfully ask if any action has been had, or, if not, if they cannot be taken up shortly.

Yours respectfully, R. H. EDDY.

U. S. PATENT OFFICE,
WASHINGTON, D. C., *Sept.* 7, 1869.

Wm. L. Burt, care of R. H. Eddy, Boston, Mass.:

Please find below a communication from the examiner in relation to your application for improvement in post-office letter boxes, filed March 26, 1869.

Very respectfully, ——— ———,
Commissioner.

* Erased December 4, 1869.

254 EXAMINER'S ROOM No. 1.

The objection to the claims stated in the office letter of May 24th have not been removed. The securing of metallic frames or casings to trunks and boxes, &c., as well as in the cases previously referred to, by rivets or equivalents, is so perfectly familiar that the mere multiplication of such frames connected together as described cannot be regarded as involving an exercise of even mechanical skill, much less of any invention. Fitting the flanges together would necessarily occur to any neat workman called upon to provide metallic casings to a set of "pigeon holes."

In regard to the last claim, the casting of a bolt case with the door is a mere question of moulding in the foundry, and has been applied to prison doors, safe doors, &c. The special application of such method is not seen to present any patentable novelty. The application of a glass pane to such a door is too familiar to need a reference. The application must accordingly be rejected.

WM. B. TAYLOR, *Examiner.*

BOSTON, *Sept.* 15, 1869.

Hon. Samuel S. Fisher, Commissioner of Patents.

SIR: The official letter of Sept. 7, 1869, in reference to Mr. Wm. L. Burt's application for a patent, filed March 26, 1869, for an improvement in letter boxes has been received.

I understand the letter to have reference only to the case as previously amended and not to the claims of the additional application, which claims were the fifth and sixth of the original application, the official letter of May 14th stating that they, if separated from the others, would be allowed.

They were separated and put into an auxiliary application of which as yet I have had no advices as respect its examination.

I would request a careful reconsideration of the first case, as the grounds set forth in the official letter of the 7th of September do not appear to have any proper bearing on the case.

Yours respectfully, R. H. EDDY.

255 U. S. PATENT OFFICE,
WASHINGTON, D. C., *Sept.* 18, 1869.

William L. Burt, care of R. H. Eddy, Boston, Mass.:

Please find below a communication from the examiner in relation to your application for improvement in P. O. letter boxes filed March 26, 1869.

Very respectfully,

—— ——,
Commissioner.

EXAMINER'S ROOM No. 1.

The applicant is informed, in reply to inquiry dated the 15th inst., that on the grounds stated in the office letter of Sept. 7th his application stands rejected, and if no new reasons appear would

have to be rejected a second time on re-examination. The application for improvement in locks for letter boxes is examined in a different class of inventions.

WM. B. TAYLOR, *Examiner.*

BOSTON, *Sept.* 23, 1869.

SIR: The official letter of the 18th Sept. has been received, such relating to Wm. L. Burt's application, filed March 26, 1869, for a patent for letter boxes.

I must adhere to my request for a reconsideration, as the objections of the examiner do not appear to be at all proper. It seems to me that further reflection must satisfy him on this point.

Yours respectfully, R. H. EDDY.

Hon. Samuel S. Fisher, Commissioner of Patents, Washington, D. C.

256 U. S. PATENT OFFICE,
WASHINGTON, D. C., *Sept.* 30, 1869.

William L. Burt, care of R. H. Eddy, Boston, Mass.:

Please find below a communication from the examiner in relation to your application for improvement in post-office letter boxes filed March 26, 1869.

Very respectfully,

——— ———,
Commissioner.

EXAMINER'S ROOM No. 1.

The claims in this application have been reconsidered, as requested; but for the reasons assigned in the office letters of May 24th and Sept. 7th must be a second time refused.

WM. B. TAYLOR, *Examiner.*

I, William L. Burt, hereby further amend the specification of my application, filed March 26, 1869, for a patent for an invention having reference to post-office letter boxes by erasing the fourth claim as disallowed on appeal to the board of examiners-in-chief.

WILLIAM L. BURT,
By his attorney, R. H. EDDY.

(Endorsed:) Patent Office, Dec. 4, 1869.

Interference Cases.

DEPARTMENT OF THE INTERIOR,
U. S. PATENT OFFICE,
WASHINGTON, D. C., *Dec.* 11, 1869.

257 SIR: Please find below a communication concerning your application for improvement in letter box filed the 26th day of March, 1869.

Very respectfully,

——— ———,
Commissioner.

William L. Burt, care of R. H. Eddy, Boston, Mass.

EXAMINER'S ROOM, No. 1.

In the matter of alleged invention above referred to notice is hereby given to the applicants hereinafter named that their claims are adjudged to interfere with each other, and that a hearing will be granted them on the 5th day of February, 1870, and that the testimony of the respective parties must be closed previous to the days hereinafter specifically designated, it being understood that the party first making the inventor's oath will be deemed the first inventor in the absence of proof to the contrary.

Rebutting testimony, but no other, may be taken after the closing of the testimony-in-chief, but the same must be closed previous to the 29th day of January, 1870.

All testimony must be taken, &c., in accordance with the printed rules herewith transmitted.

The application of Wm. L. Burt was filed March 26th, 1869. Testimony to be closed on the second Saturday in January, 1870.

The application of Linus Yale, Jr., was filed September 30, 1868. Attorney, Henry B. Renwick, No. 17 East Ninth street, New York city. Testimony to be closed on the fourth Saturday in January, 1870.

BOSTON, *Aug.* 15, 1870.

SIR: What has been done in the matter of the interferences between Wm. L. Burt and Linus Yale, Jr., pending applications for
258 post-office letter boxes, &c., the office having decided in favor of Yale, but his administrator having since conceded priority of invention to Burt and the latter having executed assignments to the Yale Yale Lock Manufacturing Company?

Yours respectfully,

R. H. EDDY,
Attorney for the Parties.

U. S. PATENT OFFICE,
WASHINGTON, D. C., *Aug.* 18, 1870.

Wm. L. Burt, assignor, &c., care of R. H. Eddy, Boston, Mass.:

Please find below a communication from the examiner relative to your application for improvement in P. O. letter box filed March 26, 1869.

Very respectfully,

——— ———,
Commissioner.

EXAMINER'S ROOM, No. 1.

In the matter above referred to the applicant is informed that no action has been taken by the office since the dissolution of the interference with the application of Yale, and no further action can be taken in the case without proper proceedings upon the part of the applicant. The concession of Yale's administrator is too late to set aside the previous judgment of the office in his favor. If the present applicant believes that he has evidence to establish his priority of invention he may make motion to have the interference reopened in conformity with section 60 of the printed rules (edition of 1870) on

filing a proper affidavit, as prescribed by section 53 of the printed rules.

WM. B. TAYLOR, *Examiner.*

BOSTON, *Sept.* 29, 1870.

SIR: In the matter of the two accompanying renewals further action will soon be taken by Mr. Burt.

Yours respectfully, R. H. EDDY.

Hon. Samuel S. Fisher, Commissioner of Patents, Washington, D. C.

259 *Petition for Renewal of an Application for a Patent.*

To the Commissioner of Patents:

Your petitioner represents that on March 26, 1869, he filed an application for letters patent for letter delivery boxes for post offices, which application has been in interference and has been rejected, but has not been abandoned. He now makes renewed application or application anew for such letters patent, and prays that the original specifications, oath, drawings, and any other papers, as well as the model or specimen of ingredients, belonging to such original application may be used as and for this renewal thereof.

Signed at Boston this 29th day of September, A. D. 1870.

WM. L. BURT.

Petition for Renewal of an Applicaton for a Patent.

To the Commissioner of Patents:

Your petitioner represents that on June 16th, 1869, he filed an application for letters patent for an improvement in post-office letter boxes, which application has been in interference and rejected, but has not been abandoned. He now makes renewed application or application anew for such letters patent, and prays that the original specifications, oath, drawings, and any other papers, as well as the model or specimens of ingredients, belonging to such original application may be used as and for this renewal thereof.

Signed at Boston this 29th day of September, A. D. 1870.

WM. L. BURT.

260 6. 1869. 139.
No. A.

William L. Burt, assignor to Yale Lock Manufacturing Company, Stamford, Conn., of Boston, county of Suffolk, State of Massachusetts.

Letter box.

Received March 26, 1869.
Petition, "
Affidavit, "
Specification, "
Drawing, "
Model, "
Cert. dep., $15, "

Cash.
Add'l fee cert.
" cash.
Examined.
2 Issue.
3 Patented 186–.
Recorded vol. —, page —.
Circular.

R. H. EDDY,
Boston, Mass.

1869.

Letter (Spec. ret. O.), May 5, '69.
Letter (R. 1, 2, 3, & 6c.), May 24, 1869.
Rejected Sept. 7, 1869.
Letter, Sept. 18, 1869.
Rejected Sept. 30, 1869.
Interf. with Yale, Dec. 11, 1869.
Hearing, 1st Sat. in Feb., 1870.
Decision, unfavorable, Feb. 24, '70.
Rejected, finally, Mar. 5, '70.
Letter, Aug. 18, 1870.
Ex.: J. A. W., M. McK.

261 (2–175.)

DEPARTMENT OF THE INTERIOR.

(Vignette.)

UNITED STATES PATENT OFFICE.

To all persons to whom these presents shall come, Greeting:

This is to certify that the annexed is a true copy from the files of this office of the file wrapper and contents of the appeal to the examiners-in-chief in the matter of the application of William L. Burt, filed October 16, 1869, for post-office letter boxes.

In testimony whereof I, E. M. Marble, Commissioner of Patents, have caused the seal of the Patent Office to be hereunto affixed this twenty-first day of March, in the year of our Lord one thousand eight hundred and eighty-one, and of the Independence of the United States the one hundred and fifth.

[Seal Patent Office United States of America.]

E. M. MARBLE,
Commissioner.

262 Appeal to the board of examiners-in-chief of the Patent Office in the matter of William L. Burt's application, filed March 26th, 1869, for a patent for an invention having reference to post-office letters boxes.

Hon. Sam'l S. Fisher, Comm'r Patents.

SIR: I, William L. Burt, hereby appeal from the decision of the examiner in charge of my application for a patent, filed March 26th,

1869, for an improvment having reference to post-office letter boxes, and request that such may be revised by the board of examiners-in-chief.

The original application, since it was filed, has been divided into two applications.

That which now embraces the following claims is the one on which the present appeal is made:

"I claim connecting each door frame to that or those next adjacent to it and to the letter box or the wood thereof by rivets or equivalents going through and arranged in them, substan-
263 tially as set forth.

"I also claim the arrangement of the flanges of each letter-box door frame and that or those next adjacent to it so as to abut together and cover the joint edge or edges of the wood of which the body of the box may be composed.

"I also claim the combination of a frame or a series of wooden letter boxes and a series of metallic door frames inserted therein, as set forth.

"I also claim the improved letter-box door made as described, viz., with the bolt case *h* cast in one piece with the rest of the door and arranged with the lock panel and the glass pane receiving opening, substantially in manner as specified."

The applicant is the postmaster of the city of Boston, and has in operation at the post office there the invention in question, which has been designed by him to prevent thieves from breaking into the delivery letter boxes; also to enable parties to obtain their own letters at any time without recourse to a delivery clerk, es-
264 pecially while the post office may be closed. All the delivery boxes of the Boston post office have been fitted with the invention, and it not only operates to great advantage, but receives the unqualified approbation of the public and parties connected with the Post-Office Department of the United States. So valuable is the invention that it is to be adopted in every large post office of this country.

The application was rejected on May 26th and September 7th.

It is believed that none of the references given are pertinent to the case.

As to the subject of the 1st and 2nd claims, they do not cover mere door frames of metal.

The first claim is to a special method of fastening the door frames together and to the wooden letter-box frame so as to prevent a person from prying off a door frame or separating it from the wooden frame. By connecting each door frame not only to the wooden frame, but to each next adjacent door frame, these latter will operate with the rivets to hold it to its letter box and prevent it from being forced off the same by a thief. Were each door frame
265 simply nailed or secured to the wood of the letter-box frame it would be no difficult matter to separate the two, but by fastening all the door frames together as well as to their letter boxes one cannot be detached without detaching all the rest, and thus the system of connection is one of great advantage.

The second claim covers the arrangement of the flanges of each letter-box door frame and that next to it, viz., so as to abut together and cover the front edge or edges of the wood of which the body of the box may be composed.

This arrangement with reference to a series of letter boxes and metallic door frames applied to them is new and highly useful, it being designed to protect the wooden frame from being cut away by a thief, as by the arrangement the whole front of the frame is completely protected by the metallic flanges of the several door frames.

In respect to the third claim the combination covered by it is believed to be entirely new. It is believed that such an arrange-
266 ment of a wooden letter-box frame and a series of metallic door frames inserted in it as set forth is not only new, but is exceedingly valuable, as besides being a means of fixing doors to the letter boxes the door frames are protectors of the wooden frame against thieves.

It is not known that a letter-box door having its bolt case cast in one piece with the rest of the door and arranged with the lock panel and the glass pane receiving opening as set forth has ever been made before that of the applicant. It is specially valuable for the purpose intended.

The applicant does not claim a metallic door and a metallic frame thereto. It would seem, in view of his special adaptation of such to a wooden letter-box frame, the connection of all the metallic frames together and to the wooden frame and the protecting of the front of the wooden frame by such frames made to lap on it and abut against one another, that he is eminently deserving of a patent, especially when we consider the great advantages of his improved letter-box frame over any other heretofore used. It is to be hoped that the board of examiners will be satisfied of this.

WILLIAM L. BURT,
By his attorney, R. H. EDDY.

267 [Endorsed:] Wm. L. Burt. Argument. Patent Office, Oct. 16, 1869. Board of appeal, Oct. 16, 1869, U. S. Patent Office.

268 No. 4102. UNITED STATES PATENT OFFICE,
WASHINGTON, *November 24th*, 1869.

Before the examiners-in-chief on appeal.

Application of WILLIAM L. BURT for a patent for an "improved post-office letter box.

All the constituent parts of the structure devised by the applicant are open to the objections taken by the examiner; yet, in the adaptation of the whole together, and the valuable result obtained, there is evidence of invention sufficient to entitle the author to a patent. As Judge Curtis remarked in Forbush *vs.* Cook, 2 Fish, 1868, a new and useful result is conclusive proof that there has been invention exercised in producing it. These remarks are intended to apply to the first three claims, which are considered patentable.

The fourth claim is fully answered by the examiner, and he is sustained in rejecting it.

S. H. HODGES,
P. C. FESSENDEN,
R. L. B. CLARKE,
Examiners-in-Chief.

269 [Endorsed:] 4102. Decision of examiners-in-chief. Board of appeal, Nov. 24, 1869, U. S. Patent Office. Wm. L. Burt. Post-office letter box. Decision of examiner in charge reversed as to first three claims; affirmed as to the fourth claim.

270 DEPARTMENT OF THE INTERIOR,
UNITED STATES PATENT OFFICE, *November 27th*, 1869.

SIR: Your application for a patent for a post-office letter box has been considered by the examiners-in-chief upon appeal, and they reverse the former action of the office as to the first three claims and affirm it as to the fourth.

Respectfully, &c.,

——— ———,
Commissioner of Patents.

F. C. LATHROP.

Wm. L. Burt, care of R. H. Eddy, Esq., Boston, Mass.

271 [Endorsed:] Board of appeal, Nov. 27, 1869, U. S. Patent Office. Copy of notice sent to applicant Nov. 27, '69.

272 No. 4102. 1869.

Appeal to the Board of Examiners.

William L. Burt,

Of
County of
State of

Board of appeal, Oct. 16, 1869, U. S. Patent Office.

Post-office letter boxes.

Rec'd Oct. 16, 1869.
Petition, " "
Affidavit.
Specification.
Drawing.
Model.
1. Cert. dep., $10, Oct. 16, 1869.
Cash.
Add'l fee cert.
" " cash.
Examined.
2. Issue.
3. Patented 186–.
Recorded vol. page
Circular.
1869.

R. H. EDDY,
Boston, Mass.

273 1869.

Examiner's decision reversed as to 1st 3 claims & affirmed as to the 4th, Nov. 24, '69, and applicant notified thereof Nov. 27, '69.
Ex'd: C. F., E. L. L.
1869.

274 Circuit Court of the United States for the Southern District of New York. In Equity.

YALE LOCK MANUFACTURING COMPANY

vs.

THOMAS L. JAMES.

This is to certify that the accompanying depositions of Joshua E. Hadlock, Thomas L. Harman, Frederick H. Moore, and John Lewis were taken before me, at my office in Boston, in the district of Massachusetts, on the 18th day of April, A. D. 1882, in pursuance of the annexed notice.

The said deponents were first duly sworn and cautioned by me to tell the whole truth, and the said depositions were reduced to writing by me in the presence of said deponents and by them subscribed in my presence.

That said depositions have been retained in my possession for the purpose of forwarding them under my own hand to the court for which they were taken.

I further certify that I am not of counsel or attorney for either of the parties in above-entitled cause, or in any way interested in the event of said cause.

In testimony whereof I have hereunto set my hand and seal this 20th day of April, A. D. 1882.

[SEAL.] (Signed) HENRY L. HALLETT,
Commissioner of the Circuit Court of U. S., Mass. Dist.

275 Circuit Court of the United States for the Southern District of New York. In Equity.

YALE LOCK MANUFACTURING COMPANY

ag'st

THOMAS L. JAMES.

GENTLEMEN: Please take notice that the depositions of Frederick H. Moore, Lyman L. Barber, Thomas Appleton, John Lewis, and William L. Burt and others who severally reside at a greater distance than one hundred miles from the place of trial of this suit, will be taken *de bene esse*, under the statute of the United States in such case provided, on behalf of defendant herein, on Tuesday, the 18th day of April, 1882, at 9½ o'clock in the forenoon, before Henry L. Hallett, Esq., a commissioner of the circuit court of the United States for the district of Massachusetts, at his office, No. 140 Tremont

street, Boston, Mass., and at such times and places thereafter as said commissioner shall appoint.

New York, April 8, 1882.

Yours, &c.,

(Signed) S. L. WOODFORD,
U. S. Att'y for Def't.

To Betts, Atterbury & Betts, compl't's sol'rs.

(Endorsed:) U. S. circ. c't, S. D. N. Y. Yale Lock M'f'g Co. *vs.* Thomas L. James. Notice April 8, 1882. S. L. Woodford, U. S. att'y, for def't. Due service copy hereof admitted. New York, April 8, 1882. Betts, Atterbury & Betts, compl't's sol'rs.

276 BOSTON, *Ap.* 18, 1882.

JOSHUA E. HADLOCK, a witness produced by and on behalf of the defendant, after being duly cautioned and sworn to interrogatories propounded by S. B. CLARKE, Esq., answered as follows:

Int. 1. What is your name, age, and occupation, and where do you reside?

A. Joshua E. Hadlock; 59; I am a carpenter; reside in Boston.

Int. 2. What, if anything, did you have to do with the introduction of post-office boxes into the Boston post office, consisting of wood pigeon holes and metal doors and door frames?

A. I furnished the wood-work, and also applied the metal doors and frames; I did not furnish the metal-work.

Int. 3. By the wood-work you mean the nests of pigeon holes?

A. Yes, sir.

Int. 3½. According to your recollection, when were the metal doors and door frames applied to the pigeon holes first?

A. I cannot state; I think it was in 1868, but I don't wish to make a statement under oath.

Int. 4. Did you make the wooden pigeon holes yourself, or obtain them from some one else?

A. I had them made by J. J. McNutt, at the Novelty Works on Wareham street, Boston.

Int. 5. Did you put them into place and apply the doors and door frames as soon as McNutt delivered them?

A. I think we did.

Int. 6. Where did he deliver them; at the post office?

A. Yes, sir.

Int. 7. Who was the postmaster at that time?

A. Gen. Wm. L. Burt.

Int. 8. Who employed you to do the work you have spoken of?

A. My bargains generally were through Mr. John Lewis; I always recognized him as the general agent of orders from Gen. Burt; Mr. Lewis at that time was the chief clerk in the Boston post office, I think.

277 Int. 9. You say that you did not furnish the metal doors and door frames; where did you find them, in order to apply them to the pigeon holes?

A. They were supplied me by Mr. Lewis.

Int. 10. Were they attached to anything, or was each door and frame separate when you found them?

A. I can't say that the doors were packed with the frames, or were by themselves; we first used the frames and afterwards applied the doors; the doors were not attached to the frames when I received them, to the best of my recollection.

Int. 11. When the doors and frames were furnished you were they then attached to any wooden pigeon holes?

A. No, sir.

Int. 12. Was there a separate metal frame for each pigeon hole?

A. There was.

Int. 13. Now tell us how you put these together, the frames, the doors, and the pigeon holes.

A. The frames were the size of the pigeon-hole openings; we put two frames in, then riveted the two together to the wood, and after we had put the frames on a whole section of pigeon holes we then put on the doors.

Int. 14. How did you rivet the frames together?

A. I had constructed a heavy pair of nippers to head them over.

Int. 15. I don't understand where the rivets were put; how did you put the rivets through the frame and through the wood-work too?

A. I did put the rivets through the frame and wood-work.

Int. 16. One rivet riveted the adjacent sides of two frames; is that it?

A. Yes, sir.

Int. 17. Did the frames have ears or lugs projecting into the pigeon holes?

A. They did, with a hole in each, and through these holes the rivets were put.

Int. 18. When the frames were attached to the wood-work did the edges of the frames abut or come close together?

A. I think they did.

Int. 19. So that when the doors and frames were all set a continuous metal front was presented?

278 A. I think so.

Int. 20. You say you had a pair of nippers made to clinch the rivets; why was that?

A. Because there was no space to use a hammer.

Int. 21. Were the rivets furnished with the frames and doors?

A. I have the impression that rivets were furnished me and I couldn't use them, and I think we used annealed wire; I think there was something wrong about the rivets.

Int. 22. So that while doors and frames and rivets were furnished you a suitable tool to put them together was not furnished, and so you had one made?

A. Yes, sir.

Cross-examination by FREDERICK H. BETTS, Esq., of counsel for plaintiff:

Cross-int. 23. Do you know who made the metal doors and frames for the Boston post office?

A. I do not.

Cross-int. 24. Are those doors and frames still in use that you put up in 1868?

A. Not to my knowledge.

Cross-int. 25. Do you know whether they are or not?

A. I don't know; I think they were destroyed in the big fire.

(Signed) JOSHUA E. HADLOCK.

BOSTON, *Apr.* 18, 1882.

THOMAS L. HARMAN, a witness produced by and on behalf of the defendant, after being duly cautioned and sworn, to interrogatories propounded by S. B. CLARKE, Esq., answered as follows:

Int. 1. What is your age, name, and occupation, and where do you reside?

A. Thomas L. Harman; 67; I am a clerk in the Boston post office; reside in Boston.

Int. 2. How long have you been a clerk in the Boston post
279 office, and what was your position there when Gen. Burt was postmaster?

A. I entered the office April 13, 1861, as private secretary to Dr. Palfrey, the then postmaster, and remained with him until 1867, when Gen. Burt was appointed postmaster, and was his private secretary during his whole term of office.

Int. 3. When did Gen. Burt begin and cease to be postmaster?

A. He qualified and took the office May 24, 1867, and remained postmaster to December 31, 1875.

(Signed) THOS. L. HARMAN.

It is hereby stipulated that the following copy of the evidence of the witness Frederic H. Moore, taken May 20, 1879, in the case of The Yale Lock Co. *v.* The Scoville M'f'g Co., in the United States circuit court for the district of Connecticut, be considered and taken as evidence duly taken in *the* this case, the direct examination being elicited by the defendant's counsel and the cross-examination by complainant's counsel.

It is further stipulated that the certified copy of the drawing Defendant's Exhibit Moore Drawing be considered as offered in evidence as and for the original exhibit so marked as an exhibit for defendant.

Copy of the Evidence of Frederick H. Moore Given on the 20th of May, 1879, in the Case of Yale Lock Co. v. The Scoville Manufacturing Company.

BOSTON, *May* 20, 1879.

FREDERICK H. MOORE, a witness produced by and on behalf of the defendant, after being duly cautioned and sworn, to interrogatories propounded by CHARLES R. INGERSOLL, Esq., answered as follows:

Int. 1. What is your name, age, residence, and occupation?

A. Frederick H. Moore; 53; Boston; architect; have been architect for myself since 1859, in Boston.

Int. 2. Have you any knowledge of the construction by William L. Burt, before September, 1868, of post-office boxes
280 with metallic fronts; and, if so, state your knowledge on that subject.

A. I have. In May, 1867, I made, under the direction of Gen. Burt, some drawings showing the construction of metallic boxes—post-office boxes—and this is the drawing I made at that time.

(The witness exhibits the paper marked "Defendant's Exhibit Moore's Drawing," E. B. H., notary public.)

Int. 3. State what the directions of Gen. Burt were and what you did in pursuance of them, and explain the drawing.

A. The drawings shows what he wanted, because it was made after his general instruction. This drawing shows in one part of it a full-size section, giving the width of letter boxes and also the full-size elevation of the doors of said boxes, both doors and frames being of metal, except the glass which is in the doors; the other portion of the drawing shows the width of one of the bays of the old post-office in Boston, a portion of which bay he proposed to fill up with these boxes; the doors of these boxes were to be hung and provided with a lock, to be hung on the outside, naturally; the drawing also shows the connection or position of the metal doors and frame with the wood partition of the letter boxes.

Int. 4. Of what were the boxes to be constructed?

A. Of wood.

Int. 5. And when completed was or not the entire frontage of the boxes to be of metal?

A. They were, except the glass in the doors.

Int. 6. What was Gen. Burt's official position at this time, and what did he state his object to be in having these boxes made?

(Objected to by Causten Browne, Esq., of counsel for plaintiff.)

A. His position was that of postmaster of the city of Boston, and his object was to provide a secure letter box for the public; he was making changes in the post-office building, and, making plans for
281 the alterations, requested me to make drawings for the new iron boxes. I was the architect for all the alterations and improvements in the post office, including furniture, &c., — all the new distributing boxes.

Int. 7. State what further was done by you to this end under his directions.

A. After these drawings were made I employed a pattern-maker to make a section of boxes, or rather fronts of boxes, from which I had a casting prepared for the frame and also for the doors, which section was prepared—that is, the doors hung to the frame, the glass set in the doors, the whole properly painted, and delivered to Gen. Burt at the post office for his inspection.

Int. 8. Describe these metallic sections more particularly, the kind of metal, and whether they conformed or not with drawings; and, if not, how did they differ?

A. Originally, the drawing called for an iron frame and doors, but the machinist who fitted up the section found the metal too hard to work readily and we used brass instead of iron; the general size of the boxes and the doors were as called for by the drawing, but a change was made in a portion of the door whereby the size of the glass was diminished and a place left large enough to put the number of the box; there were also brass wires placed vertically immediately back of the door to prevent letters, in case the glass was broken, from being extracted.

Int. 9. Were the doors at this time provided with locks; and, if not, was there any understanding as to how that provision was to be made?

A. At the time of the delivery of this section to Gen. Burt the doors were not provided with locks although the drawing called for them; he said that he himself would have the locks prepared and secured to the doors; that there was a new kind of lock, which he looked upon favorably, and that he would look out for that matter personally.

Int. 10. At the time of the delivery to Gen. Burt of the section you have spoken of had more than one section been made as you have described?

A. Not to my knowledge.

Int. 11. How many boxes did this section comprise?

A. To the best of my recollection, there were fifty-four or forty-eight; I couldn't tell.

Int. 12. After delivery of this section to Gen. Burt what
282 further do you know of his fitting up the office with metallic front boxes?

A. There were several bays, so called, fitted up with metallic boxes of the general size and form as those in the section previously delivered to him, with such changes in location of lock, number of box, size of glass in the door as would be naturally suggested by the constructor in preparing the boxes for use; all the boxes in the old post office were made after this plan except as to size; I speak now of those having metallic fronts and not of the larger paper boxes in the lower part of the bay; my impression, however, is that there were two widths of boxes different from that figured in the drawing.

Int. 13. In the completion of the several bays of which you have spoken were the sections of metallic box fronts made of the same dimensions as the sample delivered to Gen. Burt?

A. They were not the same; my impression is, there were three different size boxes—the size shown by the drawing and two sizes previously alluded to.

Int. 14. Were the frames of these box fronts, as finally put in the several bays you have spoken of, in sections of several boxes, as in the sample you delivered to Gen. Burt?

A. In the drawing of one of the bays now before me I find the width of the bay to be 8 feet 3½ inches and the height required to be filled in by boxes to be five feet; all the space included in these two distances was filled with metallic fronts except the delivery opening; they were not put in sections as in the sample; they came in single boxes; that's my impression; I mean single fronts, the wooden boxes being all in sections for filling up the required space—that is, all built together to fill up the space.

Int. 15. When was this drawing made by you, and how soon after it was the metallic front made which you gave to Gen. Burt?

A. The drawing was made in May, 1867, and the section which was made from the drawing was delivered to Gen. Burt as soon after that date as it could be made, which was, to the best of my knowledge, within one or two months; not earlier.

And in answer to cross-interrogatories propounded by CAUSTEN BROWNE, Esq., of counsel for the plaintiff, saith:

283 Cross-int. 16. In your seventh answer you say, "After these drawings were made I employed a pattern-maker to make a section of boxes, or rather fronts of boxes, from which I had a casting prepared for the frame and also for the doors;" do you remember whom you employed to make that casting?

A. I do; Mr. Barber, the machinist who fitted up the frame and door; he got the casting for me; his name is Lyman L. Barber, I think then of Charden street, now of 40 Lincoln street.

Cross-int. 17. In the section which Mr. Barber cast or procured to be cast for you and which you gave to Gen. Burt was the frame-work in which the doors were inserted made continuous, as the drawing is made—that is to say, the drawing shows six complete doors, each with its appropriate frame, and shows the frame-work for those six doors continuous; was the casting of the frame-work for all the doors in that section continuous, or, in other words, all in one piece?

A. They were continuous, all in one piece.

Cross-int. 18. How deep was this casting of the frame-work? By deep, I mean front to rear.

A. A quarter and a sixteenth of an inch—five-sixteenths of an inch, at least; that size would be required by the drawing, and I have no reason to think it wasn't the size made.

Cross-int. 19. How was this frame-work of the section fastened to the wooden boxes of the same section or they to it?

A. I don't remember clearly; my impression is by screws—that the iron frame was screwed to the boxes at the junction of the partitions.

Cross-int. 20. Please state on the record the exact dimensions of the iron frame at the point of junction you refer to.

A. The drawing shows that the frame on the outside was a strong sixteenth, widening to the rear so as to be a strong quarter.

Cross-int. 21. Did you ever see any post-office boxes put up in series in the Boston post office with such a metallic frame-work for the doors as you have been describing? I mean by that a frame-work made entirely separate from the doors and made in one continuous piece or structure for a number of doors, as you have described.

A. No, sir.

284 Cross-int. 22. In point of fact the frames which were put into the Boston post office came separate for each door and the frame in each case was provided with lugs through which the screws or rivets passed which fastened the frame to the wood; was it not so?

A. I think it was.

Cross-int. 23. State, if you know, by whom the frames and doors were supplied for the Boston post office.

A. I think by the Yale Lock Manufacturing Company; my impression is that was the name of the company at that time; I won't be sure about that.

Cross-int. 24. Please describe the manner in which the doors were hinged in the section which you furnished Gen. Burt; to what each leaf of the hinge was attached.

A. There were two separate metallic hinges to each door; one leaf screwed to the door, the other to the frame.

And in answer to interrogatories propounded by CHARLES R. INGERSOLL, Esq., saith:

Redirect-int. 25. Do you know with what kind of lock Gen. Burt designed providing his metallic door?

A. I know that he intended using the Yale lock on the boxes, because I had a general correspondence with the Yale Company about that time and because Mr. Burt told me so.

Redirect-int. 26. Do you or not know whether the metallic front prepared by you was sent to the Yale Company for the purpose of being provided with their lock?

A. I do not know, but my belief is that it was so sent for the purpose of being provided with locks.

(Signed) FREDERICK H. MOORE.

Boston, May 20, 1879.

Subscribed and sworn to before me—

(Signed) EUGENE B. HAGAR,
Notary Public.

285 I certify the foregoing to be a true copy of the evidence of Frederick H. Moore, taken May 20, 1879, in the case of The Yale Lock Company *v.* The Scoville Manufacturing Company.

(Signed) HENRY L. HALLETT,
U. S. Commissioner, Mass. Dist.

The certified copy of the Exhibit Moore's Drawing referred to in the above stipulation is offered in evidence by defendant's counsel and is marked Defendant's Exhibit Copy Moore's Drawing, H. L. H., U. S. commissioner, April 18, 1882, and is annexed.

And in answer to additional interrogatories propounded by S. B. CLARKE, Esq., for defendant, the witness, FREDERICK H. MOORE, testified as follows:

Add. Int. 1. Do you know Gen. Wm. L. Burt, the former postmaster at Boston?

A. I do.

Add. Int. 2. Intimately?

A. Quite so.

Add. Int. 3. What is the state of his health now?

A. He is confined to his bed by a paralytic stroke.

(Signed) FREDERICK H. MOORE.

JOHN LEWIS, a witness produced by and on behalf of the defendant, after being duly cautioned and sworn, to interrogatories propounded by S. B. CLARKE, Esq., answered as follows:

Int. 1. What is your name, age, and occupation and where do you reside?

A. John Lewis; age, fifty-nine; am a clerk in the Boston post office; live in Boston.

Int. 2. How long have you been a clerk in the Boston post office?

A. Thirty-six years.

Int. 3. Do you recollect the introduction of post-office letter boxes into the post office at Boston consisting of a series of wooden pigeon holes in nests or sections and metallic doors and door frames with lock fastenings?

286

A. I do.

Int. 4. When was that?

A. I should say in 1868.

Int. 5. By whose directions were such letter boxes introduced?

(Objected to as hearsay and immaterial.)

A. By William L. Burt, the then postmaster.

Int. 6. Were said boxes put in by one contractor, or were the component parts supplied by different parties and then put together?

(Objected to as immaterial.)

A. The component parts were furnished by different parties, but they were put up for use by one party—a firm.

Int. 7. What, personally, did you have to do with this?

A. I superintended the work to see that it was done properly, so that it would answer for post-office business.

Int. 8. From whom, if you know, were the component parts ordered and obtained?

A. The wood-work and the labor of putting them together was furnished by Hadlock & Bruce, carpenters; the other parts, as near as I can recollect the first seeing the other parts, Mr. Burt, the post-

master, showed me these metal-front boxes. I think the first one he showed me he showed me to have the wooden boxes made the size that this metal front would fit. I obtained the parts from Gen. Burt; he ordered them and I found them in the office when this work was to be done.

Int. 9. What do you mean by the words "metal-front boxes" in your answer?

A. I meant at that time to say the metal front of the letter boxes.

Int. 10. When you first saw the metal fronts and doors were they in packing boxes?

287 A. The first lot I saw was in packing boxes, except the one that was given me to make the wood-work by.

Int. 11. Were the frames and doors attached together in the packing boxes?

A. I think they were.

Int. 12. What else was furnished, if anything, to put these component parts together?

A. The rivets.

Int. 13. Now, please tell us how they were put together in detail and what difficulties, if any, you met with and how you overcame them.

A. When we came to put them together the first lot of rivets that came with the metal fronts were too hard to use to make a head; Mr. Hadlock, the carpenter, found a difficulty in fastening them properly on account of their hardness, and I suggested the use of a wrought-copper wire cut to the right dimensions and length; we put these fronts into the boxes and we had a pair of pincers, made with long long nippers, that would reach into the box where this rivet went through; one pair had an awl on one part to make a hole in the wood-work to put the rivet through, then we had another pair of pincers made so as to press these rivets together and make a head; that was the way of fastening together in sections; three hundred to a section, or thereabout; these sections were then set up by Hadlock & Bruce for use as letter boxes.

Int. 14. I infer from your answer that the metal fronts projected somewhat into the pigeon holes, and that the projections of adjacent frames were riveted together through the partitions of the pigeon holes; am I correct?

A. Yes, sir.

Int. 15. And that there was a separate frame for each pigeon hole; is that right?

A. Yes, sir.

Int. 16. And that there were about three hundred pigeon holes in a section arranged in vertical and horizontal series?

A. I think there were ten sections in all and between three and four thousand boxes altogether; some of the sections had more and some less; that was the total.

Int. 17. The boxes of each section were in horizontal and vertical tiers, were they not?

288 A. Yes, sir; they were ten boxes high, and then run along the space between the pillars.

Int. 18. When the wooden pigeon holes and metal doors and frames were put together, as you have stated, tell us whether or not the ends of the partitions of the pigeon holes were exposed or were covered up by the frames.

A. They were covered up by the frames.

Int. 19. So that each section of boxes presented a continuous metal front?

A. Yes, sir.

Int. 20. Give us your best recollection as to what month in 1868 all this took place.

A. As near as I can recollect, it was after warm weather set in; I can't say whether in May or June or later or earlier, but I should say shortly after warm weather set in.

Int. 21. On what street was the post office at that time?

A. On State street, with an entrance on Congress street and Lindal street.

Int. 22. How long after the delivery of the nests of wooden pigeon holes by the person who made them were the metal frames and doors attached to the pigeon holes in sections and the sections set up as you have described?

A. As near as my recollection serves me they went right to work on them.

Int. 23. Have there ever been, to your knowledge, in the Boston post office horizontal or vertical series of post-office boxes composed of wooden pigeon holes and wooden locked door and wooden door frames?

(Objected to as incompetent and immaterial, if any question is to be asked of this witness bearing upon the issue of want of novelty or the Yale invention, for the reason that the name and residence of this witness are not specified in the answer as a person alleged to have any prior knowledge of said invention.)

A. Yes, sir; there has.

Int. 24. How far back were they used in the Boston post office?

(Same objection.)

289 A. I found them there when I entered in the office, in July, 1845.

Int. 25. How long did they continue to be used in the Boston post office.

(Same objection.)

A. I think that section of boxes—I don't know; I think there might have been three sections—were continued to be used until we moved into the present office, in 1874 or 1875.

Int. 26. Were they used while Gen. Burt was postmaster?

(Same objection.)

A. Yes, sir.

Int. 27. Did Gen. Burt know of their being used all the time he was postmaster?

A. Yes, sir.

Int. 28. Now, regarding a section of those wooden framed and doored boxes, state whether the wood of the door and the door frame made a continuous surface, or whether some portion of the wood of the partition of the pigeon holes was exposed or visible when the doors were closed.

A. That I couldn't say for certainty for this reason, that the uprights of the pigeon holes might have come out flush with the front, but we have a section of those boxes stored away in the office now, and I will examine them during the recess.

(Recess from one to two.)

Int. 29. Have you examined the section of boxes you have referred to? And, if so, state how far back that particular section was used in the Boston post office, and whether it is one of the sections you have spoken of, and describe its construction in detail.

A. I have examined it; it was in use from twenty years ago up to the time we moved into the present building, in 1875, I think; it is one of the sections I have spoken of; in this section of boxes I have just examined the boxes were made first, and then the framework was made afterwards with the doors and fastened on.

290 Int. 30. Of what sort of wood were the doors and frames and what sort the pigeon holes?

A. I should say the doors and frames were made of black walnut and pigeon holes of pine.

Int. 31. Did the doors and frames present a continuous surface of black walnut, or was some portion of the pine pigeon hole visible?

A. I should say it was a continuous surface of black walnut.

And in answer to cross-interrogatories proposed by F. H. Betts, for plaintiff:

Cross-int. 33. What was your position in the Boston post office in 1868?

A. I was what they called chief clerk of the mail department and sort of general superintendent of the post office.

Cross-int. 34. What is your position now?

A. Chief clerk of the inquiry office.

Cross-int. 35. Was it part of your duties in 1868 to superintend any changes or alterations in the post office?

A. Yes, sir.

Cross-int. 36. Who gave orders for all such changes?

A. William L. Burt, the then postmaster.

Cross-int. 37. Did anybody else beside the postmaster have any authority to direct or order any changes?

A. Not to my knowledge.

Cross-int. 38. Then nobody but the postmaster could direct any changes or alterations, no matter who suggested such changes or alterations; is that so?

A. Yes, sir.

Cross-int. 39. You said in answer to the 8th question that Mr. Burt, the postmaster, showed you metal-front boxes to have the

wooden boxes made; was his showing you such metal front for the boxes the first you knew of the proposed change?

(Form objected to, as the witness has stated that he meant to say metal fronts of the boxes and not metal-front boxes.)

A. No, sir.

Cross-int. 40. Had you ever seen said metal fronts before?

291 A. Not that metal front; I had previously seen a metal front in a section.

Cross-int. 41. Do you mean by a metal front in a section a single metal front for a whole section of boxes?

A. A metal front for a section that contained from 12 to 20 boxes.

Cross-int. 42. When did you see that metal front?

A. A short time previous to seeing the one Gen. Burt showed me?

Cross-int. 43. Who showed you this single metal front for a large number of boxes?

A. Gen. Burt.

Cross-int. 44. Was this single metal front of the large number of boxes fastened to any boxes or was it separate?

A. Separate.

Cross-int. 45. What was it made of?

A. Some kind of metal; the material I don't know; don't recollect.

Cross-int. 46. Did it have any doors on it?

A. Yes, sir.

Cross-int. 47. Any locks on the doors?

A. I don't recollect.

Cross-int. 48. Where was it when you saw it?

A. In the postmaster's room.

Cross int. 49. Was it being used for any purpose?

A. It was made with the expectation that it would be used for these boxes, but they condemned it on account of its frailability; it wasn't strong enough.

Cross-int. 50. Who condemned it?

A. The postmaster. I suppose he called the attention of others, and between them they concluded it wouldn't answer.

Cross-int. 51. Do you know anything about that of your own knowledge?

A. No, sir; I think he showed it to me and asked my opinion about it at the time and I told him it wasn't stout enough—strong enough.

Cross-int. 52. Do you remember how it was arranged, if at all, to be attached to the pigeon holes?

A. I have no recollection of seeing anything to it at the time it was shown me any way it could be fastened to the pigeon holes.

292 Cross-int. 53. Did you examine it carefully?

A. I can't say that I did, for the reason that at my first glance at it it didn't seem stout enough, and I didn't examine it thoroughly.

Cross-int. 54. Did Mr. Burt say anything further to you on the subject, except to ask your opinion?

A. No, sir.

Cross-int. 55. Was that the first time that the subject of putting metallic fronts to post-office boxes had been called to your attention?

A. Yes, sir.

Cross-int. 56. State, as near as you can, when this conversation with the postmaster occurred.

A. As near as I can recollect, it was very early in 1868.

Cross-int. 57. Do you know who made this front for the large number of boxes?

A. No, sir.

Cross-int. 58. Did you know anything more about putting metallic fronts on post-office boxes until the time spoken of by you in your 8th answer, when Mr. Burt showed you the metal fronts to have the wooden boxes made to fit them?

A. No, sir.

Cross-int. 59. Where was it that he showed you these metal fronts?

A. I think it was in his room.

Cross-int. 60. How many of these metal fronts had then been delivered at the post office?

A. I don't know, sir.

Cross-int. 61. A considerable number?

A. I think the next time I saw any of these metal fronts was when a lot was brought in and put on the bench where this work was being done; whether they came by express or were brought from the postmaster's room I don't know.

Cross-int. 62. Do you know when they were delivered at the post office?

A. No.

Cross-int. 63. When the postmaster directed you to have the wooden boxes made did you see more than one of these metal fronts?

A. No, sir; I think that was the only one I saw.

Cross-Q. 64. Then you don't know whether a quantity had
293 been made and delivered at the post office before that time, do you?

A. No, sir.

Cross-int. 65. Did the postmaster say anything more to you about them, except to have the boxes made to fit them, at — time he showed you one in his room?

A. Not to my recollection.

Cross-int. 66. Did you have anything to do with ordering these metallic fronts made?

A. No, sir.

Cross-int. 67. Do you know anything about their being ordered?

A. No, sir; all I know is I found them in the office.

Cross-int. 68. These metallic fronts for which you ordered the boxes made were, as I understand, separate fronts for each box; is that so?

A. Yes, sir.

Cross-int. 69. Could you tell by examining the single one of said fronts you first saw how large the pigeon holes were to be and what the thickness of the partitions were to be between the pigeon holes?

A. Yes, sir.

Cross-int. 70. What thickness of partition was required for such front as you first saw?

A. The up-and-down partition, as near as I can recollect now, was three-sixteenths of an inch; I shouldn't want to swear it was three-sixteenths; it was very thin; the cross partitions, I should say, rather less than half an inch; they had to be wider, to put the man's name on who had the box.

Cross-int. 71. Were all the fronts when you saw them in quantities afterwards of the same size, shape, and pattern as the first one you saw?

A. Yes, sir; so much so that you could take any one of them and put it into any one of the pigeon holes and it would fit.

Cross-int. 72. Would it have been practical to have made the sections of pigeon holes out of metal of the thickness required by the construction of these fronts?

(Objected to as not pertinent to the matter of the direct examination.)

294 A. No, sir; it would not.

Cross-int. 73. The fronts, then, as they were delivered to the Boston post office, were obviously constructed to be applied to sections of wooden pigeon holes; is that so?

A. Yes, sir.

Cross-int. 74. Did any change have to be made in the fronts in order to apply them to the wooden pigeon holes, so as to make a continuous metallic frontage when they were put up in position?

A. No, sir.

Cross-int. 75. Did you know at the time who made these separate metallic fronts for the boxes to be arranged in series, so as to make a continuous metallic frontage for the wooden sections?

A. Not at the time Gen. Burt gave me this single one.

Cross-int. 76. Did you subsequently?

A. I think I learnt afterwards where they were made.

Cross-int. 77. Where were they made, as you so learned?

(Objected to as calling for hearsay.)

A. I so learned that they were made in Connecticut.

Cross-int. 78. By what concern?

(Same objection.)

A. I couldn't swear by what concern, only as hearsay.

Cross-int. 79. State the information you received at the time you received it.

(Same objection, and also because the time has not been fixed.)

A. Well, I was led to believe they were made by the Yale Lock Company, but who told me or how I came by the information, I couldn't say.

Cross-int. 80. Was that your understanding at the time these fronts were first put up in the post office?

(Objected to as immaterial.)

A. Yes, sir; I think that understanding came from the locks and keys coming marked Yale Lock Company, and I think
295 that's the way I got the information without asking anybody.

Cross-int. 81. Did you ever have any other or further conversations with Gen. Burt than what you have detailed on the subject of metallic fronts for post-office boxes?

A. No, sir; not to my recollection.

Cross-int. 82. Did Gen. Burt have anything to do with putting up the boxes or applying the fronts?

A. He had all to do with obtaining them and having them delivered at the office; he had them made, and we understood at the time they were gotten up by him and this Mr. Moore, the architect, who he employed to make the alterations in the office.

(Answer objected to for the reason that the witness has already sworn that he had nothing to do with ordering the boxes and don't know anything about the ordering of them; also, to the last part of the answer as volunteering.)

Cross-int. 83. Question repeated.

A. General Burt gave me orders to see that they were done correctly.

Cross-int. 84. Did he give you any more specific orders than that?

A. No, sir.

Cross-int. 85. Did he personally overlook the matter at all?

A. He used to come in occasionally and look at us to see how we were getting along.

Cross-int. 86. Did he give any personal direction about the work?

A. He would come in there and see how we were getting along, and he might give directions to do this and do that. If the work was going on to suit him he would say, "It is all right," "Hurry up," or something like that.

Cross-int. 87. Do you remember that he did give any directions?

A. I think very probably he did, as otherwise I shouldn't have attended to it without his authority.

Cross-int. 88. In your 82d answer you mentioned a Mr. Moore; is that Mr. Frederick H. Moore who has been examined as a witness here to-day?

A. Yes, sir.

296 Cross-int. 89. In putting up these metallic fronts, could they have been fastened to the wooden pigeon holes by nails or screws passing from the projections in the rear of each front into the wood-work of the partitions without using such long rivets as to rivet the fronts together?

(Objected to as not pertinent to the matter in direct.)

A. No, sir.

Cross-int. 90. Were all the fronts provided with projections on the inside or rear, so as to fasten them to the partitions at top, bottom, and on both sides?

A. Yes, sir.

Cross-int. 91. How did you secure the outside edges of the boxes to the wood-work in the case of those boxes which formed the exterior rows of the section?

A. I don't recollect; the up-and-down piece on the end of the section was what they call inch chestnut; I don't recollect how they were fastened to that—whether a screw or a nail; I don't think it was a screw, as there wasn't room.

Cross-int. 92. You have partly described the sections of boxes with wooden doors, which you say were used in the Boston post office for twenty years prior to 1875. In the case of those boxes with wooden doors, was the front for the whole section containing all the doors made as one piece and afterwards applied as the front of the section?

A. The pigeon holes appeared, on the section I examined to-day, to be made first and the fronts to have been built onto them afterwards.

Cross-int. 93. Was the front built as a whole and applied as a whole to the section?

A. I couldn't say.

Cross-int. 94. There were no separate fronts for the separate boxes, were there?

A. It did not appear so to me, for the reason that the strip that held the doors on appeared to be one continuous piece across the whole front.

Cross-int. 95. Please state the dimensions of the front of that section, height and width, and how many boxes it contained.

297 A. The only dimensions I can give you is from guess-work; about five feet high and eight feet long and about eighty-one boxes.

Cross-int. 96. Was the introduction of metal fronts to the post-office boxes as they were put up a valuable improvement in the post office?

(Objected to as not pertinent to the matter in direct.)

A. That is merely a matter of opinion; one might like them and another might not.

Cross-int. 97. Can't you form any opinion on the subject?

(Same objection.)

A. Well, I should say that the old style was the best, with the glass sash in front.

Cross-int. 98. Are said metallic-front boxes exclusively used in the Boston post office now?

A. They are, with a few exceptions; a few banks refuse to use them and have boxes with the box inside.

Cross-int. 99. How many metallic boxes are now used in the Boston post office?

A. About four thousand.

Direct resumed by Mr. CLARKE:

Int. 100. The metallic fronts now used—are they the same or different from those you have described?

A. They are different; whereas the first brass fronts were fastened with rivets, those now in use are fastened with bolts with a nut on the inside, the bolt running from the outside of the metal front half way through the partition into the office.

Int. 101. Also different in these respects, are they not, namely, that most of the boxes are larger; that the upright partitions, as well as the horizontal partitions, are about half an inch thick; that there are no lugs or ears projecting back into the pigeon hole, and that the locks are in one piece with the doors and not attached to the doors?

(Objected to as leading.)

298 A. Yes, sir; one-third of them are larger; every third box is a larger size. The partitions are thicker than the old ones. The horizontal ones are about the same; the vertical ones, I should think, were three-eighths of an inch large. There are no lugs or ears. The lock frame is in one piece with the door, and is fastened onto the door. When you take the lock off you've got to take the door off.

Int. 102. In reference to the doors and door frames attached to the wooden partitions, as you have stated, in 1868, what is your recollection as to whether those locks were attached to the doors before or after the adjustment to the pigeon holes?

A. I think there was a German locksmith, as near as I can recollect, came there and put the locks onto the doors after they were fastened onto the pigeon holes. I have a faint recollection of seeing a round hole in each of these boxes after they were put up, in which the face of the lock came.

Int. 103. Now, were the words "Yale Lock Company" engraved on anything but the keys and the locks?

A. I have no recollection of seeing them anywhere else.

Int. 104. Did those words being on the key and lock indicate any more to you than that the keys and locks were the manufacture of the "Yale Lock Company?"

(Objected to as leading and as an endeavor to induce the witness to contradict his previous testimony.)

The counsel for defendant disclaims any such intent.

A. My impression was at the time that they all came from the same source.

Int. 105. By whom did you understand at the time the plan of applying metal fronts which was adopted, as you have stated, was contrived?

(Objected to as hearsay and immaterial.)

A. I didn't understand it from anybody. I drew the inference that Burt and Moore had their heads together to see what alterations

they could make in the office, and from them, through them, through their ideas, these metal fronts came to the office.

299 Int. 106. On direct examination I inadvertently omitted to ask you what search for Gen. Burt's papers has been made, and with what result?

A. As far as I am concerned, I never searched for his papers; but I heard that Mr. Harmon has searched for a diary he kept for Gen. Burt, and that he couldn't find that or any of his letter books.

Int. 107. Where were Gen. Burt's papers and records put when he left the office, if you know?

A. Of my own knowledge, I don't know where they went.

Int. 108. How long did it take to put up the frames and doors after the sections of pigeon holes were delivered—about how long?

A. Well, I couldn't tell; from six weeks to three months.

Int. 109. How long after they were delivered before the first section was in its place?

A. I couldn't tell.

Int. 110. About how long?

A. I couldn't tell whether it was a week or six weeks on the first section.

Cross resumed by Mr. BETTS:

Cross-int. 111. You have been asked about some difference of construction between the metallic boxes now used and the first ones that were put up. Are those now used applied to the wooden pigeon holes, so that the edges of the separate fronts for each box abut against each other so as to form a continuous metallic frontage on the outside?

A. Yes, sir.

(Signed) JOHN LEWIS.

300 Circuit Court of the United States for the Southern District of New York.

YALE LOCK MANUFACTURING COMPANY *vs.* THOMAS L. JAMES.

I, Henry L. Hallett, a commissioner of the circuit court of the United States for the district of Massachusetts, certify that the annexed depositions of George H. Pousland, John J. McNutt, and Percival A. Bruce were taken by me on the 30th day of June, A. D. 1882, and that before the taking of said depositions each deponent was first duly cautioned and sworn to tell the truth; that said depositions were taken in pursuance of the annexed notice, and were reduced to writing in the presence of said deponents, and by them signed in my presence; that at the taking of said depositions the Yale Lock Manufacturing Company, plaintiff, was represented by H. S. Hoyt, Esq., and Thomas L. James, defendant, by S. B. Clarke, Esq.

I further certify that I am not of counsel and have no interest in the above suit.

[L. S.] HENRY L. HALLETT,
U. S. Comm'r, Mass. Dist.

301 Circuit Court of the United States for the Southern District of New York.

YALE LOCK MANUFACTURING COMPANY *vs.* THOMAS L. JAMES.

GENTLEMEN: Please take notice that the depositions of James O. Young, William E. Connor, John Lewis, Thomas L. Harmon, Henry S. Adams, Thomas Appleton, Joshua E. Hadlock, Archibald Bruce, J. J. McNutt, Theodore C. Faxon, George H. Pousland, Frederick H. Moore, and others, witnesses, who severally reside at a greater distance than one hundred miles from the place of trial of this suit, will be taken *de bene esse*, under the statutes of the United States in that behalf provided, on behalf of the defendant herein, on Friday, the 30th day of June, 1882, at 10 o'clock in the forenoon, before Henry L. Hallett, Esq., a commissioner of the circuit court of the United States for the district of Massachusetts, at his office, No. 140 Tremont street, Boston, Mass., and at such times and places thereafter as said commissioner shall appoint.

New York, June 22, 1882.

Yours, etc.,

S. L. WOODFORD,
S. B. C., U. S. Att'y, for Def't.

To Messrs. Betts, Atterbury & Betts, complt's solicitors.

302 *Deposition of Geo. H. Pousland.*

JUNE 30, 1882.

Interrogatories propounded by S. B. CLARKE, Esq., of counsel for defendant.

Int. 1. What is your name, age, residence, and occupation?

A. George H. Pousland; 42 years old; live in Salem; am a commission merchant.

Int. 2. Had you any connection with the late firm of Sprague, Soule & Co.?

A. Yes; I was employed by them as clerk, in 1865, and after eight or nine years I became a member of the firm.

Int. 3. Do you recollect the introduction of metal front lock boxes in the Boston post office when Gen. Burt was postmaster?

A. I recollect the fact of our being called upon to pay an extra amount for the privilege of getting our letters without having to call for them.

Int. 4. What was that extra assessment you speak of nominally required for?

A. I presume for the privilege of getting our letters out of the office; I judge from the receipt they gave us, it was to pay for the lock and key.

Int. 5. How much was the extra assessment?

A. Four dollars; three for the lock and one for the key.

Int. 6. When did you pay that amount to Gen. Burt?

A. It is charged on our book the 12th of September, 1868.

Int. 7. In whose handwriting is the entry on your books?

A. My own, made at the time it purports to have been made; I have no doubt it is correct.

Int. 8. Won't you state what the book is, and read from it the entry referred to?

A. It is the expense book, and the entry is "Sept. 12, 1868, P. O. lock box and keys, $4."

Int. 9. Have you Burt's receipt for that $4?

A. I have it and produce it (and the same is marked for identification "Exhibit X, H. L. H.")

Int 10. What was the number of Sprague, Soule & Co.'s box?

A. 3,734.

303 And in answer to cross-interrogatories propounded by H. S. HOYT, Esq., of counsel for plaintiff:

Cross-Int. 11. The $4 you paid to Mr. Burt in 1868, was that for the post-office lock and keys?

A. I suppose it was.

Cross-int. 12. When you paid this $4 was that when you first had the use of the box?

A. No, sir; it was after we had the use of the box; we had been paying rent for the box for some time.

Cross-int. 13. Can you describe at all the construction of that box?

(Objected to.)

A. I can't call it to mind at present.

GEO. H. POUSLAND.

Deposition of John J. McNutt.

JUNE 30, 1882.

Interrogatories propounded by S. B. CLARKE, Esq., of counsel for defendant:

Int 1. What is your name, age, and occupation, and where do you reside?

A. John J. McNutt; 59 years old; live in Boston; builder and contractor.

Int. 2. What is the name of your factory?

A. The Novelty Wood-Works, of Wareham and Malden streets, Boston.

Int. 3. Do you recollect anything regarding the making of wood cases—of pigeon holes—for post-office boxes for Hadlock & Bruce, of Boston?

A. I do.

304 Int. 4. Tell us what you recollect about it.

A. I remember the making of the cases, and the pigeon holes were made just ot a size to receive a certain frame—a metal frame of some kind.

Int. 5. Do you remember when you made them?

A. I couldn't without referring to my books; it is some time ago.

Int. 6. What particular book do you refer to?

A. To my day book.

Int. 7. Have you that book here; and, if so, will you produce and read the entry from it relating to these cases?

A. I have; the book is marked "Journal K" on the back; I read from page 69, which is headed "Boston, Monday, May 18, 1868;" the entry I refer to under that date is "Hadlock & Bruce, Dr., to 10 cases, 3,470 openings for P. O., 9=$312.30; carting to Congress street, $5; $317.30."

Int. 8. The 9 in that entry indicates what?

A. Nine cents for each opening.

Int. 9. That entry is correct, I suppose?

A. There is no doubt about it.

Int. 10. And made after delivery to Hadlock & Bruce on Congress street?

A. Yes, sir.

Cross-interrogatories by H. S. HOYT, Esq., of counsel for plaintiff:

Cross-int. 11. Did you fit the metal fronts to the pigeon holes; I mean fasten them on?

A. I think not; we only had one there as a sample to work from.

Cross-int. 12. Will you describe that sample you had—the size of it?

A. It would be mere guess-work; I should say 2½ by 3½ inches.

Cross-int. 13. The sample was, then, just sent you with orders to make pigeon holes of just that size?

A. Yes.

J. J. McNUTT.

305 *Deposition of Percival A. Bruce.*

JUNE 30, 1882.

Interrogatories propounded by S. B. CLARKE, Esq., of counsel for defendant:

Int. 1. What is your name, age, and occupation, and where do you reside?

A. Percival A. Bruce; Chelsea, Mass.; 46 years old; am a carpenter.

Int. 2. If you were in any firm in the year 1868 what was the name of the firm?

A. Hadlock & Bruce.

Int. 3. Do you recollect doing any work in the Boston post office for Mr. Burt that year on letter boxes; and, if so, what was it?

A. I do; we made ten cases of pigeon holes for letter boxes.

Int. 4. Did you make them yourself or have the contract for them?

A. Had the contract for them.

Int. 5. Please to state as fully as you recollect all that was done on those 10 cases of wooden pigeon holes by you.

A. They were furnished me by McNutt and set up by us in the post office.

Int. 6. Did you fit and attach doors and locks to them?

A. Fitted and fastened a frame to each opening with a door and lock already attached to the frame; a separate frame for each pigeon hole.

Int. 7. How did you fasten the frames to the pigeon holes?

A. By a copper rivet through the perpendicular partition; through an ear on each frame and the wood between them; the rivet headed and riveted.

Int. 8. I understand that from each frame an ear or lug on each side projected back into the pigeon hole, and that the frames were uniform, so that one rivet joined two frames together as well as attached each one to the wood?

A. Yes, sir.

Q. 9. Whether or not there was any flange or rim around the frame that covered any part of the wood partition?

306 A. There was a flange, and when they were together it made a solid metal front, covering all the wood of the partitions.

Int. 10. Have you your books of account for that year?

A. I have not.

Int. 11. Give us your best recollection of the month in the year 1868 when you attached the metal frames to the cases.

A. My best recollection would be that it was the month of June.

And in answer to cross-interrogatories propounded by Mr. HOYT, of counsel for plaintiff:

Cross-int. 12. State, if you know, by whom the metal frames and doors were supplied to the Boston post office.

A. By the post office direct; but I always understood that they originally came from the Yale Lock Co.

Cross-int. 13. Won't you please state, as nearly as you can, what the contract you spoke of called for?

A. It called for ten cases, not all of the same size, of wooden pigeon holes, to be made to receive metal frames, those frames to be riveted together in one continuous line the length of the case. A sample frame was furnished us.

Cross-int. 14. Were you consulted about putting up these post-office boxes or was the contract simply offered to you?

A. They offered us the contract.

Cross-int. 15. The contract called, you say, for wooden pigeon holes?

A. Yes, sir.

Redirect by Mr. CLARKE:

Redirect Int. 16. Have you any personal knowledge that the frames and doors came from the Yale Lock Company?

A. The men who worked on the locks told me they were in the employ of the Yale Lock Company. I had no dealings or any communications direct with the company.

Recross by Mr. HOYT:

Recross-int. 17. Do I understand you that your answer to
307 the 12th cross-interrogatory was correct, as far as you know, and that your impression was at the time that the frames were made by the Yale Lock Company?

(Objected to as immaterial, and motion to strike out what the witness said he "understood," in answer to cross-interrogatory 12, as not evidence.)

A. It is correct, to the best of my knowledge, and that was my impression at the time.

PERCIVAL A. BRUCE.

308 Circuit Court of the United States for the Southern District of New York.

YALE LOCK MANUFACTURING COMPANY *vs.* THOMAS L. JAMES.

I hereby certify that on the ninth day of May, A. D. 1882, at my office, No. 490 Louisiana avenue, in the city of Washington, D. C., personally appeared before me, pursuant to the notice hereto annexed, at 10 o'clock a. m., Philander E. Wilson and Alfred B. Mullett, the witnesses named in said notice, and Frederick H. Betts, Esquire, appeared as counsel for the plaintiff, and Samuel B. Clarke, Esquire, as counsel for the defendant, and the said Philander E. Wilson and Alfred B. Mullett, being by me first duly cautioned and sworn to testify the whole truth and being carefully examined, deposed and said as appears by the depositions hereto annexed; and I further certify that the said depositions were then and there reduced to writing by me, and, after they had been reduced to writing, read to and subscribed by the witnesses in my presence.

And I further certify that the reason why said depositions were taken was that the said witnesses reside at Washington city, District of Columbia, more than one hundred miles from the place where this cause is to be tried.

I further certify that I am not of counsel or attorney to either of the parties nor interested in the event of the cause, and that
308½ the fee for taking the said depositions, $21.00, has been paid to me by Thomas L. James, and that the same is just and reasonable.

In testimony whereof I have hereunto set my hand and official seal, at Washington city, District of Columbia, this tenth day of May, A. D. 1882.

[SEAL.] L. CABELL WILLIAMSON,
U. S. Commissioner, D. C.

Circuit Court of the United States for the Southern District of New York.

YALE LOCK MANUFACTURING COMPANY *vs.* THOMAS L. JAMES.

GENTLEMEN: Please take notice that on behalf of the defendant herein I shall take the depositions *de bene esse*, under the statutes in

such case provided, of Schuyler Duryee, A. B. Mullett, and others, witnesses who reside at a greater distance than one hundred miles from the place of trial hereof, before United States Commissioner L. Cabell Williamson, at his office, No. 490 Louisiana avenue, in the city of Washington, D. C., on Saturday, May 9th, 1882, at 10 o'clock in the forenoon, and at such times and places thereafter as said commissioner shall appoint.

Yours, &c., S. L. WOODFORD,
U. S. Attorney, for Def't.

New York, May 2, 1882.

To Messrs. Betts, Atterbury & Betts, compl't's sol'rs.

(Endorsed:) U. S. circuit court. S. D. N. Y. Yale Lock M'f'g Co. *vs.* Thomas L. James. Notice, May 2d, 1882. S. L. Woodford, U. S. att'y, for defendant. Time changed to May 9th at Mr. Betts' request. S. B. C. Due service copy hereof admitted. New York, May 2d, 1882. Betts, Atterbury & Betts, compl't's sol'rs.

308½ Circuit Court of the United States for the Southern District of New York.

YALE LOCK MANUFACTURING COMPANY *vs.* THOMAS L. JAMES.

MAY 9, 1882—10 o'clock a. m.

Met pursuant to the annexed notice.

Present: Samuel B. Clark, on behalf of the defendant, and Frederick H. Betts, on part of plaintiff.

PHILANDER E. WILSON, a witness of lawful age, being produced and sworn on part of the defendant, deposes and says:

Examined by Mr. CLARKE:

Q. 1. What is your name, age, residence, and occupation?

A. Philander E. Wilson; sixty-one years of age, and a clerk in the Patent Office, and reside in Washington, D. C.

Q. 2. How long have you been clerk in the Patent Office, and what part of the business have you charge of?

A. I have been in the Patent Office since September, 1852; I have charge of the records of assignments.

Q. 3. What is the customs of the office in respect to making a digest or index of the assignments and transfers of patents that have been recorded?

(Objected to as incompetent and immaterial.)

309 A. The assignments are examined with the records of the office to ascertain if the patents have been issued as described in the assignment, and, if found correct, it is then indexed in the name of the inventor and the brief of the title made upon the digest; after the record of the assignment is made on the books of the office the liber and page in which it is recorded is attached to the digest.

Q. 4. Have you made a search for assignments of the patent

granted Silas N. Brookes, as administrator of Linus Yale, Jr., September 19, 1871, No. 119,212, for improvement in post-office letter boxes, and of the reissues thereof, Nos. 4963, 7625, and 8783?

A. I have made a careful search.

Q. 5. Do you produce certified copies of such assignments as you found?

A. I do.

(Assignments are here offered in evidence and marked "Defendant's Exhibit Brookes' Assignment No. 1" and "Defendant's Exhibit Brookes' Assignment No. 2, L. C. W., U. S. commissioner, May 9, 1882.")

Q. 6. Did you find any other assignments of that patent or its reissues?

A. I did not.

Q. 7. Did you find any other agreement or instrument of writing on record in the Patent Office relating thereto?

A. I did not.

Q. 8. Do you also produce a certified transcript from the digest of the office which you have described?

A. I do.

Q. 9. Down to what date is that transcript made up?

A. It is made up to and including March 7, 1881.

Q. 10. Have you examined said digest to ascertain whether this certified transcript is correct as of any and what later date than March 7, 1881?

A. I have made an examination from March 7, 1881, to May 4, 1882, and find no change in the digest.

310 (Certified transcript offered in evidence and marked "Defendant's Exhibit Abstract of Title.")

May 9, 1882.

[SEAL.] L. C. W.,
U. S. Commissioner.

No cross-examination.

PHILANDER E. WILSON.

Subscribed and sworn to before me this 9th day of May, A. D. 1882.

[SEAL.] L. CABELL WILLIAMSON,
U. S. Commissioner, D. C.

ALFRED B. MULLETT, a witness of lawful age, produced and sworn on behalf of the defendant, deposes and says:

Examined by Mr. CLARKE:

Q. 1. State your name, age, occupation, and residence.

A. Alfred B. Mullett; I am in my forty-ninth year; my occupation is an architect, and reside in Washington, D. C.

Q. 2. What, if anything, had you to do with the introduction into the new post office in New York city of post-office letter boxes, con-

sisting of a series of wooden pigeon holes and metal doors and door frames?

A. I cannot tell without reference to the record whether I gave an order for the metal fronts and for the construction of the wooden pigeon holes or not; I believe that I did, and, if not, should have done so if not prevented by my resignation; I assume that I did, and, if so, it was done in accordance with my duties as supervising architect of the Treasury Department and in accordance with the wishes of the Post-Office Department, which was my duty to comply with as far as practicable.

Q. 3. When were those letter boxes put into the new post office?

311 A. If they were put in — 1874, they were put in under my order; if they were put in after that, they were put in by my successor, and in either event they were probably ordered by me.

Q. 4. When did you cease to be supervising architect of the Treasury?

A. January 1, 1875.

Q. 5. Prior to that time had any post-office letter boxes, constructed and put together as those now in the new post office in New York city are, been put into any of the Government buildings in the United States?

A. The same fronts had been used in a great many; whether they were attached to the wooden pigeon holes in the same manner I cannot remember.

Q. 6. Can you name some of the offices in which they were put?

A. I believe they were put in the post office at Baltimore; Portland, Oregon; I think some at Astoria, Oregon; St. Paul, Minn.; Des Moines, Iowa; Madison, Wisconsin; Chicago; I think also at Toledo, Ohio; I don't know exactly how many; I think some fifteen or twenty buildings altogether.

Q. 7. What, if anything, had you to do with putting these boxes in the offices you have referred to?

A. They were ordered in accordance with my duties as supervising architect of the Treasury; the earlier orders were given after an examination under myself and consultation with the officers of the Post-Office Department; the subsequent ones on the written request of the Postmaster General.

(Objected to as incompetent, so far as the answer purports to state the contents or effect of written papers.)

Q. 8. Were you at the time of giving these orders aware of the patent I now show you, namely, patent No. 119,212, dated September 19, 1871, for improvement in post-office letter boxes to Brookes, as administrator of Yale?

A. (Witness examining paper shown him.) Yes, sir.

Q. 9. What was your view in reference to that patent?

(Objected to as immaterial.)

312 A. That there was nothing in the patent of any importance

unless the change of a construction from wood to metal was patentable, which I did not believe was the case.

Q. 10. What knowledge had you of the state of the art to which that patent belonged.

(Objected to as incompetent and immaterial, unless the question and answer thereto be limited to the specific instances and places of alleged prior knowledge of witness set forth and referred to in the answer.)

A. I was aware from personal observation that wooden pigeon holes closed on the outside with wooden doors, and in some instances with glass panels inserted in the doors, the doors being controlled by box owners by means of a lock and key substantially as these are, were in use in many post offices; I might say in general use. I put similar boxes in the post office at Cincinnati while in charge of the improvements there, which were made, I believe it was, in 1864; the exact date can be ascertained from the records of the Treasury, if necessary.

Q. 11. Had these wooden doors referred to a separate wooden frame from the pigeon holes?

(Objected to for the same reason as last objection.)

A. In most instances they had, and I recollect no instance to the contrary; there might have been.

Q. 12. Where the wooden frames were used were the ends of the partitions of the pigeon holes exposed to view on the outside?

A. My recollection of it is that the partition of the pigeon holes were made entirely separate from the front; in some instances, in order to save room, boxes of this character were placed in panel pilaster, that form part of the design, in which case the pigeon holes may have been made of stuff sufficiently heavy to become a part of the pilaster; my recollection is that there were some such cases. I think the pilasters at Cincinnati were constructed in that manner; if so, the ends of the pigeon-hole stuff may have been visible on the outside. At the time I made the decision in regard to the
313 patent referred to the whole subject was fresh in my mind and drawings showing the way the work was constructed in the building was at my control. I have had neither the inclination nor opportunity to refresh my memory since the commencement of this suit. I think the wood work is still in place in the Cincinnati post office substantially as I left it.

Q. 13. Were any of the frames so arranged as to cover the ends of partition?

(Same objection.)

A. Yes, necessarily so.

Q. 14. Were those partitions arranged in horizontal and vertical tiers?

(Same objection.)

A. Same as they are now.

Q. 15. Was the wood of the doors and frames the same as the wood of the pigeon holes?

(Same objection.)

A. In nearly every instance it was different. I believe in every one, unless possibly in the instances I have referred to above and in the instances in which the pigeon holes were made in the form of drawers, which was generally done in the lowest tiers.

Q. 16. Can you say that this construction which you have described of wooden pigeon holes in series, and wooden door frames, covering the ends of the partitions of the pigeon holes and wooden doors, the kind of wood being different in the doors and frames from what it was in pigeon holes, existed in the Cincinnati office prior to 1868?

(Objected to as leading.)

A. Yes, sir.

Q. 17. Did it exist in the Chicago office?

(Objected to as leading.)

314 A. That is where I got my ideas from.

Q. 18. Can you name any other office except the Cincinnati office?

(Same objection as to question 10.)

A. I cannot, and can only identify the Chicago office, because I went there to examine it before commencing the improvements at Cincinnati, that office being considered at that time the model post office, Mr. Armstrong being in charge as deputy postmaster, Mr. Smith at St. Louis in the same capacity, and those gentlemen were considered the best experts in those matters that the Post Office had in its employ.

Q. 19. Did you find this construction you have described in the Chicago office?

(Objected to as leading.)

Q. 20. What construction did you find in the Chicago office?

A. Similar to that I found in the Cincinnati office.

Q. 21. What knowledge had you prior to 1868 of the use of metal doors or door frames for any purpose?

(Same objection as to question 10.)

A. They have been used in a great many Government buildings, the outer doors and frames being of iron; I have also known of their general use for the protection of fire-proof vaults; they were also, prior to that time, in the register's office of the Treasury Department; large number of cases for the reception of files in which the doors and cases were of iron; nothing more occurs to me at present.

Q. 22. Describe, particularly, the construction of the file cases in the register's office.

(Objected to as incompetent, because not referred to in the answer.)

315 A. I would suggest that, as they are in existence now, you had better get some one else—I would say an expert—to examine them or procure drawings.

Q. 23. Give your recollection about them.

(Same objection.)

A. The doors are considerably larger than the pigeon holes; about two feet six inches in the height and about twelve inches wide, hinged to the frame in the usual manner.

Q. 24. What is your first knowledge of the use of metal doors and frames for post-office letter boxes?

A. A sample of the boxes described in the patent previously submitted to me was, if my memory is correct, brought to my attention by Gen'l Wm. L. Burt, at the time postmaster at Boston, who was desirous that they should be used in the new post office in that city at that time in contemplation.

Q. 25. Do you remember when this was?

A. My impression is that it was just after the great fire in Boston.

Recess till 2 o'clock p. m.; after which the witness was cross-examined by Mr. BETTS:

Cross-Q. 26. When did you become suvervising architect of the Treasury?

A. I was appointed by Secretary McCulloch very soon after he entered upon his duties; I don't remember the date.

Cross-Q. 27. About what year?

A. I don't remember the date; it is a matter of record.

Cross-Q. 28. Are you in Government employ now?

A. I claim to be; it is a matter of controversy.

Cross-Q. 29. In what position?

A. Superintending architect of the principal buildings I designed and commenced.

Cross-Q. 30. While you were supervising architect prior to 1875 did you have the right to determine what kind of post-office boxes should be used in the post offices?

A. No, sir.

Cross-Q. 31. Who did have that right?

316 A. The supervising architect is vested by law with no authority whatever; he is, therefore, nothing more than the recognized agent of the Secretary of the Treasury, under whose authority all expenditures are made; of course, practically, the supervising architect makes the selection, subject to the approval of the Secretary; at least he did so under my administration, and I made no expenditures whatever without his authority and approval.

Cross-Q. 32. Did the postmasters of the different offices in practice have anything to do with the kinds of post-office boxes used in their several offices?

A. No, sir; postmasters in practice were found to be entirely too ephemeral; it was found that no matter how well an office was fitted nearly every new postmaster wanted some changes, frequently a change that restored the building to an arrangement previously de-

stroyed; it was, therefore, found necessary to fit up the buildings on a general system and to use a general style of furniture and fixtures that was approved by the Post-Office Department.

Cross-Q. 33. As a matter of fact were not any reasonable changes adopted and made which were suggested and made by the postmasters, especially of the more important offices, which they found valuable or more convenient in the transaction of the business of their office?

A. If the word reasonable is omitted from the question I should answer it by saying no; if the word reasonable is to be understood as meaning such changes as were approved and considered necessary or desirable by the supervising architect as the representative of the Secretary of the Treasury, I would say yes, when there were funds available to make them.

Cross-Q. 34. You state, in answer to the 8th question, that at the time you gave orders for the fitting of a number of post offices mentioned by you with metal-front boxes like those now in the New York office you knew of the letters patent No. 119,212, dated September 19, 1871, granted to Brooks, as administrator of Yale, who called that patent to your attention.

A. My impression is it was Gen. Burt; he introduced me to some other gentlemen, with whom I had a discussion upon the subject, but I think he first brought it to my attention.

Cross-Q. 35. Was this other gentleman to whom Gen. Burt
317 introduced you connected with the Yale Lock Manufacturing Company?

A. Yes, sir; so I intended to be understood.

Cross-Q. 36. Was it on this same occasion that you were first shown the metal frames and doors for post-office boxes as mentioned by you in answer to the 24th question?

A. I cannot say; my relations with Gen. Burt were very intimate and of the most friendly character; I considered him one of the ablest men in the Post-Office service; I believe I took very few, if any, steps in regard to the Boston post office without consulting him; he was at that time very frequently in this city, and often for days at a time; when in the city he was in and out of my office daily, and consequently I cannot identify the times when discussions took place with him; my impression is he first brought the sample and subsequently the patent, but the patent might have been brought with the representative of the Yale Lock Company.

Cross-Q. 37. Did you ascertain that prior to that time the Yale Lock Manufacturing Company had furnished several post offices with metallic fronts and doors for wooden pigeon holes constructed as described in said patent?

A. I had nothing to do with any post offices save those in Government buildings, and felt no interest in what arrangements made in them; Gen. Burt may have mentioned such a fact if it existed, but it was a matter of no interest to me, and consequently made no impression on my memory; if they were used in any building — under my supervision prior to the time when they were put in the Old South Church by Gen. Burt the dates are confused in my memory,

and the time when Gen. Burt first called my attention to them must have been at an earlier date and in connection with some other building; having no access to the records of the Department, I cannot speak accurately in reference to dates and many details which I could otherwise do.

Cross-Q. 38. After having the patent called to your attention did you order from the Yale Lock Manufacturing Company any of said boxes for any of the Government post offices, to wit, for Portland and Bangor, Maine; Richmond, Virginia, and other places?

A. I have stated that I could not remember as to dates; it is possible that I ordered the boxes for Portland and Bangor, both
318 of which I ordered prior to the fire in Boston; if so, Gen'l Burt must have called my attention to them in connection with the Portland office; my impression is that after the fire in Boston that the Secretary of the Treasury, Mr. Boutwell, agreed, on my request and that of Gen'l Burt, to authorize me to purchase them out of the appropriation for the new post office and lend them to Gen'l Burt as postmaster for temporary use in the temporary post office in the Old South Church; I subsequently ordered for several buildings—I cannot recollect how many at present.

Cross-Q. 39. Did you order these boxes for Portland and Bangor of the Yale Lock Manufacturing Company?

A. That is my recollection.

Cross-Q. 40. Were those boxes so ordered by you constructed and arranged as described in the Yale patent already referred to?

A. The first ones I ordered were constructed, as near as I can see, in exact accordance with the patent; subsequently some modifications were made in the pattern, but they were all substantially in accordance with the patent.

Cross-Q. 41. So far as you know, was the Yale Lock Manufacturing Company the first party who ever supplied to post offices post-office boxes consisting of a tier of wooden pigeon holes having applied thereto a series of separate metallic fronts and doors, which, when put together, formed a continuous metallic frontage for the pigeon holes?

(Objected to as immaterial and as not pertinent to the matter of the direct examination.)

A. I think there is no doubt about that.

Cross-Q. 42. For how long a time after these metal-fronted post-office boxes of the Yale Manufacturing Company's had been called to your attention did you order such boxes exclusively from that company?

A. I can't remember; no very great period; the first controversy on the subject of the use of them took place, unless I am mistaken, in the purchase of the boxes for the Portland post office, when a local manufacturer presented a design of his own and insisted on competing; I remember Senator Fessenden was desirous that
319 they should be furnished by local makers if possible, but my impression is that the price was considerably more than that of the Yale Lock Manufacturing Company; at any rate the proposal was rejected.

Cross-Q. 43. You did order such boxes exclusively from the Yale Lock Manufacturing Company for a time, did you not, for use in the Government offices?

A. I hardly think that I could answer that in the affirmative; the fact is that almost simultaneously with the suggestion of metallic fronts to post-office boxes different patterns were offered by other manufacturers, and of course a controversy arose between them; the next that I can remember definitely is that I insisted on the post office examining the different kind of patterns and designating the kind they desired me to use; my recollection is that after examining different samples the Post Office Department recommended the samples submitted by the Yale Lock Manufacturing Company and the Johnson Rotary Lock Company, stating that either would be satisfactory; I declined to make any selection between them, but notified both parties that I would divide the orders as nearly equal as I could until the validity of the Yale Lock Manufacturing Company's patent was determined; and in case that it was sustained the fronts would be ordered exclusively of them thereafter.

Cross-Q. 44. Who manufactured and supplied the fronts for the New York city post office?

A. The Johnson Rotary Lock Co., and I think they also supplied the wood-work of the pigeon holes.

Cross-Q. 45. As matter of fact, after the order you gave to the Yale Lock Manufacturing Company for the fronts for the Portland post office did you ever order any more fronts from them?

A. It is my impression that I did, but the thing is so very distant that I have no very definite recollection of the orders; I never have attempted to charge my memory with any question which was a matter of official record.

Cross-Q. 46. Please mention such offices as you remember as were supplied by your orders with these metal-front boxes by the Johnson Rotary Lock Company.

A. I can't remember the list of them; the rule I adopted in that compromise I spoke of was to use the Yale fronts in New England and the Johnson fronts in the West, and that under-
320 standing, as I understood, was accepted by both parties pending the suit, which I then understood was to be commenced immediately and pressed to a conclusion without delay; that understanding was not kept, and controversy and constant annoyance continued, and I insisted on the Post Office Department making a definite selection; General Creswell, then Postmaster General, appointed a commission to examine the subject, and, if I am not mistaken, an advertisement was inserted in the paper asking for samples and proposals; the commission reported in favor of the Johnson Rotary Lock Company fronts; the report was approved by the Postmaster General, and the Treasury Department was notified of his decision, after which the orders were given to the Johnson Rotary Lock Company only; the date of that order I don't remember.

(Answer objected to as irresponsive, and, so far as it purports to state official action by appointment or action of commission or ap-

proval of the same, as not the best evidence, and as to the "understanding" of the witness is immaterial and incompetent.)

Question repeated.

A. I do not desire to answer questions which are of official record and from which the information can be readily obtained; I have no objection to mention where I can recollect; I think they were used at Portland, Oregon, Astoria (if any), St. Paul, Des Moines, Madison, at the temporary office at Chicago after the fire, Toledo; I think some were used at St. Louis, New Orleans, Mobile, and Cairo; I cannot recollect whether they were used at Cincinnati.

Cross-Q. 47. Did the Yale Lock Manufacturing Company always claim that these Johnson Rotary Lock Company boxes were an infringement upon their patent?

A. So I understood.

Cross-Q. 48. Did they so notify the Department and the postmasters?

A. I don't remember whether any formal notice was served on the Treasury or not, but it was fully understood by the Treasury Department that a use of any other boxes was claimed by
321 the Yale Lock Manufacturing Company to be an infringement on their rights; as to the postmasters I know nothing.

Cross-Q. 49. Did the Yale Lock Manufacturing Company call the attention of the Department to the reissues of their patents when obtained?

A. I have no recollection of anything of the kind; they may have done so; the Department looked upon it as a controversy between the Yale Lock Manufacturing Company and the Johnson Rotary Lock Company, and consequently one in which they had no special interest, and I am free to say that had the courts at that time made the decision upon which I understand this suit to be based, I should have recommended the Department to give no orders for any fronts until the validity of the patent was determined or have ordered them exclusively of the Yale Lock Manufacturing Company.

Cross-Q. 50. About how many metallic fronts to post-office boxes were introduced during your administration in the Goverment Post Office?

A. I cannot form any opinion whatever; I have even forgotten where they were used.

Cross-Q. 51. You were asked some questions, on the direct examination, in regard to post-office boxes having wooden frames and wooden doors; in such cases there were no separate fronts for the separate pigeon holes, were there?

A. In the case of the wooden fronts the frame or screen in which the doors were placed had to be sufficiently strong to stand by itself, and the pigeon holes had to be put up behind it, except as indicated in my direct examination; the real fact about the matter is, that prior to the introduction of metallic fronts the doors were not used in the smaller-sized boxes for reasons that are obvious to any mechanic; when metallic fronts were introduced they were used at first for the smaller-sized boxes only; ultimately they were used for all sizes.

Cross-Q. 52. Do I understand you to mean that, except in cases where the doors were hinged in the wood of the pigeon hole, that the frame containing all the doors of the section was built as a separate structure that would stand by itself in the space allotted to it in the post office, and then the boxes erected behind such frame?

A. I don't mean to say that there was any definite rule about it; I have never seen anything novel about it, except the use of
322 metal for wood. If the use of metal instead of wood to accomplish a well-known want and a given result is patentable I should have considered the Yale Lock Manufacturing Company's patent good and acted accordingly; as I did not and could find no other practicable originality about it, I could see no patentable invention in it. The manner of the construction of the wooden boxes and fronts undoubtedly varied with the different locations and the tastes of the different designers; my recollection is that they were in general use in post offices; my memory is perfectly clear that when it was first brought to my attention I stated I could see no novelty in it beyond the substitution of a metallic for a wooden front, and I do not think any other substantial claim was made at the time.

Cross-Q. 53. Do you remember any instance where you have ever seen in a post office a tier of wooden pigeon holes, each pigeon hole provided with a separate wooden front and door attached to the pigeon hole?

A. I have never stated that I have seen any, but the use of doors that gave access to individual pigeon holes were so common that I would not state that they were not in use in every building to a greater or less extent; it would have been a disadvantage rather than an advantage and the violation of the principles of good carpentry to make a separate frame and a separate door to each pigeon hole of wood.

Cross-Q. 54. You never saw any such construction, to your knowledge?

A. No, sir; I can't imagine what object there would be in making them so.

Cross-Q. 55. Such a construction would not be practical, in your opinion, would it?

A. It would have been practicable, but not desirable; and it is not probable that the Post-Office Department would ever have extended the use of hinged fronts to the smaller-sized boxes if metal had not been introduced. The metallic fronts were undoubtedly a great convenience, and their introduction enabled the extension of the lock-box system to be extended into the smaller boxes at a moderate expense.

Cross-Q. 56. Please explain your last answer a little more fully in regard to the convenience of the metallic fronts.

A. Prior to the introduction of the metallic fronts a sufficient number of lock boxes — provided in post offices to accom-
323 modate the bankers, merchants, and other persons who were willing to pay an extra price for the privilege. The smallest size wooden-front lock boxes were not less than four inches wide, as

far as I can remember—possibly four and a half—while the smallest-sized metallic fronts ever made were, I think, two and three-eighths wide; but these were found in practice to be too small, and three inches were determined on to be made. In all of the more important offices there was a deficiency of space available for the purposes of boxes, and it was, of course, desirable to put them in the smallest possible compass; as a consequence, the extension of the lock-box system to the smaller-sized boxes was inexpedient and to that extent impracticable.

Cross-Q. 56½. The introduction of the metallic fronts enabled the lock-box system to be used by the general public, did it not?

A. Yes, sir.

Cross-Q. 57. And the extension of the lock-box system to the general public limited the number of general-delivery clerks employed?

A. That is the theory.

Cross-Q. 58. Is it not also true that the smaller the size of the boxes, and consequently the compactness of the boxes together, the less the labor of sorting the mail?

(Objected to.)

A. I have no knowledge that would warrant me in answering.

Cross-Q. 59. You have given your views as to the Yale patent and patentability of the invention. Did you take the opinion of any legal officer of the Government on the patent?

A. I could not say positively, but I have no doubt that I consulted the solicitor, such being my usual practice; it may have been submitted formally to him, but I do not think so.

Cross-Q. 60. You spoke of some iron cases in the register's office. Were those cases constructed with a single door for the whole case, in which there was a number of receptacles?

A. No; they are long cases—I think about sixteen feet long and ten feet high—the front of each case being a succession of
324 doors; I think there are four tiers of doors in the height of case.

Cross-Q. 61. According to the practice in the United States do postmasters not occupying Government buildings select and purchase their own boxes?

A. I believe that was at one time the universal custom, and it was the general custom during the period I was supervising architect of the Treasury, and at one time the universal practice.

Cross-Q. 62. Was John L. Chambers the manager of the Johnson Rotary Lock Company during your administration?

A. He was secretary of the company, and the only person with whom I ever transacted any business?

Redirect by Mr. CLARKE:

Redirect Q. 63. I think Mr. Betts, in his questions, spoke of the Yale Lock Manufacturing Company's furnishing post offices boxes on your order; did they furnish the boxes or the fronts alone?

A. I have used the word boxes throughout as meaning fronts; nothing else was purchased of the Yale Lock Manufacturing Company, and nothing else of the Johnson Rotary Lock Company, until near the close of my administration; the Johnson Rotary Lock Company furnished some of the wood work for the pigeon holes.

Redirect Q. 64. Do you know of any advantage in making a separate metal front for each pigeon hole over a metal frame constructed to cover a number of pigeon holes?

A. None, except they can be taken down, if desirable, and transferred to another place, and also it is the most economical mode of construction.

Redirect Q. 65. Why most economical?

A. Well, for many reasons; among others all of the metallic fitting is done in the factory, and the outer margin of each nest of pigeon holes coming against wooden frame-work is easily fitted.

Recross-examination by Mr. BETTS:

Recross-Q. 66. You understood, did you not, from the first introduction to you of the subject of metal fronts for post-
325 office boxes that they were to be applied to wooden pigeon holes?

A. Yes, sir.

A. B. MULLETT.

Subscribed and sworn to before me this 9th day of May, 1882.

[SEAL.] L. CABELL WILLIAMSON,
U. S. Commissionr, D. C.

326 UNITED STATES OF AMERICA.

STATE OF RHODE ISLAND, }
District of Rhode Island, County of Washington, } *ss:*

Be it remembered that on this 21st day of June, A. D. 1882, I, Samuel H. Cross, a notary public within and for the said State of Rhode Island, did call and cause to be and personally appear before me, at the town clerk's office, in Westerly, county of Washington, and State of Rhode Island, in the said district of Rhode Island, Eugene B. Pendleton and Peleg Clarke, Jr., to testify and the truth to say on the part and behalf of the defendant in a certain suit or matter of controversy now depending and undetermined in the circuit court of the United States for the southern district of New York, at the city of New York, in the district aforesaid, wherein the Yale Lock Manufacturing Company is plaintiff and Thomas L. James is defendant; and the said Eugene B. Pendleton, being about the age of 33 years and the said Peleg Clarke, Jr., being about the age of 62 years, and having been by me each and severally first cautioned and sworn to testify the truth, the whole truth, and nothing but the truth in the matter of controversy aforesaid, I did carefully examine

the said Eugene B. Pendleton and Peleg Clarke, Jr., and they did thereupon severally depose, testify, and say as follows, viz.:

327 Circuit Court of United States for the Southern District of New York.

YALE LOCK MANUFACTURING COMPANY *vs.* THOMAS L. JAMES.

Depositions taken *de bene esse* on behalf of the defendant, pursuant to notice, of Peleg Clarke, Jr., and Eugene B. Pendleton, residents of Westerly, R. I., before Samuel H. Cross, Esq., notary public, at Westerly, R. I., June 21, 1882.

Present: H. S. Hoyt, Esq., for complainant; Samuel B. Clarke, Esq., for defendant.

EUGENE B. PENDLETON, produced on behalf of the defendant, being duly cautioned and sworn to testify the whole truth, testifies as follows:

Q. 1. What is your name, age, residence, and occupation?

A. Eugene B. Pendleton; 33 years old; residence, Westerly, Rhode Island, and occupation, postmaster at that place.

Q. 2. State what, if anything, you know concerning the introduction into the Westerly post office of the lock letter boxes now there.

A. The present lock boxes in the Westerly post office were placed therein some time between June, 1867, and the first of September of that year. They were first used on the first day of September, 1867, and have been in constant use ever since.

Q. 3. How many are there?

A. I think one hundred and thirty-three.

Q. 4. Describe them.

328 A. Iron front—well, this model is an exact *fac-simile* of them——

(Model referred to by witness is marked "Defendant's Exhibit Westerly Model, June 21, 1882, S. H. C., Not. Pub.")

Witness proceeds:

The locks are somewhat different, those in the office having a flange through which the fastening screws go instead of through the corners of the lock like the model.

Q. 5. I understand you to mean that the letter boxes referred to are arranged in vertical and horizonal tiers or series, and consist of black walnut pigeon holes and iron doors hinged to the partitions of the pigeon holes; is that correct?

(Objected to by complainant's counsel as leading.)

A. Yes, sir.

Q. 6. How long have you been employed in the Westerly post office?

A. Steadily since April 1, 1867, as clerk, assistant postmaster, and postmaster.

Q. 7. How do you fix September 1, 1867, as the date of the first use of the boxes like this model?

A. Because the office was moved to its present location at that date, and then I have an old cash account of my father's, who was postmaster at that time, which shows rent for these boxes collected then.

Q. 8. Have these boxes been secure?

A. They have; never anything taken from them or attempted to be taken from them to my knowledge. The glass in the doors is pinned in by wooden pins besides being puttied in.

Q. 9. State what, if anything, you know relative to the use of this same construction of post-office locked letter boxes in other post offices.

(Objected to as leading.)

A. I know there were some of them in use in Washington, D. C., post office, when Mr. Edmunds was postmaster, I think soon
329 after Gen. Grant's first inauguration; there have been some of them in use, I should say, for twelve or thirteen years in Ashaway post office, Washington county, Rhode Island.

Cross-examination by Mr. HOYT:

Cross-Q. 10. Are the boxes in the post office exactly represented by the model in all other respects except those mentioned?

A. They are, except the depth of the pigeon holes is, of course, greater.

Cross-Q. 11. Are not the pigeon holes in the post office smaller than those in the model?

A. I should say not.

Cross-Q. 12. Are they larger?

A. I should say they were just the same, but I haven't measured them.

Cross-Q. 13. You say that these boxes were put in between June and September, 1867; do you know they were first used on Sept. 1st of that year from the account book of your father which you have referred to; and, if not, how do you know they were first used then?

A. I do know they were first used on September 1, 1867. I know we first moved in there then—first put up the mail there then; these are the identical boxes that were there then.

Cross-Q. 14. Can you say that any boxes were rented at that date; and, if so, how many?

A. Yes; I can say that. I can't tell the exact number, but can give it to you from my father's records.

Cross-Q. 15. Can you state about the number rented at any time during the following five years?

A. Yes, sir; about one hundred.

Cross-Q. 16. Do you know this from your father's records?

A. Yes, sir; I know it from the records and I know it from memory.

Cross-Q. 17. How long since you have examined your father's records in regard to this matter?

A. Well, I looked it over about four weeks ago.

Cross-Q. 18. About how many boxes do you suppose were rented between 1872 and 1880, per year?

330 A. All the way from ninety-five to one hundred six or seven, I should think.

Cross-Q. 19. Since these boxes were put in, in 1867, have any alterations been made in them?

A. No, sir; sometimes the locks have been taken off to have new keys fitted.

Cross-Q. 20. The doors have never been taken off or the wood-work changed?

A. No, sir.

Cross-Q. 21. The boxes you have referred to in Washington, D. C., were they in the main post office in Washington?

A. They were when the city post office was in the General Post Office. I saw them there in 1870, I think.

Cross-Q. 22. You say they were like the boxes in the Westerly post office; were they in all respects the same?

A. I didn't examine them from the inside; the doors were the same as these.

Cross-Q. 23. Who made the boxes in the post office at Westerly?

A. Babcock & Moss, who built the whole building, made the wood-work and had the iron-work made.

Cross-Q. 24. Do you know who made the boxes in the post office at Washington?

A. Mr. Peleg Clarke, Jr., had the doors made; don't know who made the wood-work; he is the person who had charge of the work at Westerly for Babcock & Moss.

Cross-Q. 25. What class office is this at Westerly?

A. Second class.

Cross-Q. 26. About how many letters pass through the Westerly post office a day?

A. Neighborhood of 3,500 or 4,000, on average.

Cross-Q. 27. How many arrive here?

A. Probably 2,500 a day.

(Signed) EUGENE B. PENDLETON.

PELEG CLARKE, Jr., produced on behalf of the defendant, being duly cautioned and sworn to testify the whole truth, testified as follows:

Q. 1. What is your name, age, residence, and occupation?

A. Peleg Clarke, Jr.; age, sixty-two; residence, Westerly,
331 Rhode Island, and occupation mechanical engineer and architect by profession.

Q. 2. State what, if anything, you had to do with the introduction of lock post-office letter boxes into Westerly post offices.

A. The post office is in the Dixon House, of which I was the superintending architect. I designed the doors, made the pattern, and had them cast at the Builders' iron furnace in the city of Providence. The locks and hinges were fitted to the doors by Cottrell & Babcock, of Pawgatuck. We had a great deal of trouble in finding

suitable locks. On July 26, 1867, I took one of those cast-iron doors previously cast as stated and went to Shelburne Falls, Massachusetts, to the Yale & Winn Company. I got to the hotel at night, about six o'clock, being the first, only, and last time I was ever in the place. I enquired of the landlord where the Yale Lock Manufacturing Company was. He said the Yale Cutlery Company was just across the street, down a ledge, from his house, and Mr. Yale, the old man, had gone to New York, but Linus Yale, Jr., was at home. I told him my object in coming, and he said this Mr. Yale would probably answer my purpose; and while we were talking he remarked that the foreman had just gone out and locked the shop for the day's work, but frequently Linus Yale, Jr., remained down there, and I might find him if I went to look for him immediately. I immediately went down, found the door was not locked, went in, saw a young man, who proved to be Linus Yale, Jr. I showed him my door and told him what I wanted. He said he had nothing in the shape of locks, and hadn't made anything that was applicable to that door, and had but recently commenced making small locks in their establishment. I asked him to show me what he had. He hunted around and showed me some cupboard locks and drawer locks. I selected the drawer locks, and, with some changes (principally a flange to put the screw through, which I suggested), made an agreement with Mr. Yale for him to furnish those locks for the Westerly post office; went to the hotel, staid all night, and returned home next day, July 27, 1867. The locks were then furnished and the doors applied to the pigeon holes of the Westerly post office. This
332 model is a *fac-simile*, so far as the face is concerned. The wood partitions are precisely the same size, but not so deep. The locks on the model differ from the original locks in having no flange for the attaching screws.

(Witness refers to Defendant's Exhibit Westerly Model.)

Q. 3. What has become of your original drawing or design?

A. I think it might be found, if preserved, with the papers of Babcock & Moss. There were cart-loads of their papers. That concern was dissolved years ago by death of Mr. Babcock, and I doubt whether that drawing can be found now.

Q. 4. Did you take the drawing with you to Shelburne Falls and show it to Linus Yale, Jr.?

A. I did.

Q. 5. State more fully your conversation with Linus Yale, Jr., in regard to the design shown in your drawing.

A. He examined the drawing and wanted to know why we didn't make the entire front of iron, as I had drawn it. I told him the reason was that we hadn't time, and there was too much trouble about it to bother about one post office. He said it would make a better looking front and have the appearance of more security. He said that a metal door with a lock on it for post-office purposes was a new idea.

Q. 6. Referring to the boxes as put up in the Westerly post office, what sort of wood were the pigeon holes made of?

A. Black walnut.

Q. 7. I understand you to mean that the pigeon holes were arranged in vertical and horizontal tiers or series, as represented in this model?

A. Yes, sir.

Q. 8. Do you know of any other post offices besides that at Westerly where the construction represented in the model was used? I mean iron doors and wood pigeon holes.

A. Yes, sir; I furnished the doors for some ten to thirteen different places. I recollect Taunton, Ashaway, Washington.

Q. 9. Can you fix the date of the introduction of these boxes into the Westerly post office?

A. They were applied to this post office in the building about August 9 to August 12, 1867.

333 Cross-examination by Mr. HOYT:

Cross-Q. 10. These locks which Mr. Yale supplied you with, did he have to have them made or did he have them in stock?

A. My recollection is that some were in stock and enough more in process of making, so that we obtained them in a few days.

Cross-Q. 11. Do the boxes in the post offices you have referred to present a front similar to that shown by the boxes in the post office at Westerly?

A. They are a *fac-simile*, the doors being of the same pattern.

Cross-Q. 12. Were the doors arranged in the same way?

A. I can't tell. I only sent the iron doors complete—lock and glass and hinges, paint and numbers. In some instances I sent drawings for the wood boxes.

Cross-Q. 13. Did you ever see these boxes in use in the post offices you have referred to?

A. I have, in Washington, in Ashaway, in Westerly, in Taunton. I saw them in the General Post Office in Washington in 1874, and repeatedly before that in Washington. In Ashaway I noticed them within the last three or four months.

Cross-Q. 14. You say you saw the boxes in Washington post office repeatedly. Have you seen the boxes in the other offices you mention also repeatedly?

A. Yes, sir; in Taunton half a dozen times or more; Washington a dozen times; in Ashaway fifty or a hundred or more.

Cross-Q. 15. Then you are perfectly familiar with them?

A. I have seen them, and I know the pattern when I see it.

Cross-Q. 16. You mean you are familiar with the front appearance, of the front of the boxes?

A. Yes, sir.

Cross-Q. 17. How is it, then, that you did not know if the doors are arranged in the same way as they are in the post office at Westerly?

A. All I have seen are similar in arrangement to those at Westerly, but some offices I haven't seen to which doors of this pattern were sent.

Cross-Q. 18. Have all the doors that you have ever made been similar to those at Westerly post office?

A. All made by the same pattern.

334 Cross-Q. 19. And so far as you know were all arranged in the same way?

A. Yes, sir.

Cross-Q. 20. Have you ever made any memorandum at any time of the conversation between you and Mr. Yale in July, 1867?

A. No, sir; not fully; I think nothing until within two or three months, when I wrote to Mr. Woodford, at his request, briefly about this matter.

Cross-Q. 21. Do you know whether the Washington boxes are still in use?

A. No, sir; I haven't been in Washington since 1874, I think.

Cross-Q. 22. Did you ever make any post-office boxes according to the drawing referred to?

A. I never have—that is, with the iron-frame front. The drawing was identical with this model, as far as the door was concerned. This model is the same, exclusive of the iron-frame front.

Cross-Q. 23. Did you have any conversation with any other persons about this drawing besides Mr. Yale?

A. Yes.

Cross-Q. 24. Many people?

A. Possibly twenty—fifteen to thirty; couldn't say exactly.

Cross-Q. 25. Do you think you could repeat any conversation you had with other persons in regard to it?

A. Yes.

Cross-Q. 26. And be willing to swear what certain individuals with whom you talked had said, and be able to give their names?

A. Some of them I could and would.

Cross-Q. 27. Are you certain of the conversation with Mr. Yale?

A. Oh, yes, sir.

Cross-Q. 28. Was anything said at that conversation about the safety of the boxes shown in the drawing you have referred to and those in the Westerly post office?

A. No, sir; only as I have stated. He said he thought the entire iron front would have the appearance of more safety or security.

335 Cross-Q. 29. When you left Shelburne Falls where did you go?

A. I went by stage to Deerfield; I think it was near Hoosac tunnel, and if I had my memorandum I could give you the cost of every fare by stage, hotel, dinner from there to Westerly.

Cross-Q. 30. How long is it since you have seen this memorandum?

A. Since receiving second note from Mr. Woodford; within two or three months.

Cross-Q. 31. And you had down in this memorandum places you went to and the dates?

A. Yes, sir.

(Signed) PELEG CLARKE, JR.

UNITED STATES OF AMERICA, } ss.:
District of Rhode Island, }

I, Samuel H. Cross, a notary public within and for the State of Rhode Island, in said district, do hereby certify that the reason for taking the foregoing depositions is, and the fact is, that the testimony of the said witnesses is material and necessary for the defendant in the cause in the caption of the said depositions named, and that the said witnesses live and did live at the time of taking said depositions in the town of Westerly, county of Washington and State of Rhode Island, the same being at a greater distance than one hundred miles from the city of New York, where the court at which it is expected the said cause will be tried was appointed by law to be held, to wit, more than one hundred and twenty-five miles therefrom.

I further certify that on the 21st day of June, A. D. 1882, I was attended at the town clerk's office aforesaid by the attorney for the plaintiff in said cause, and also by the attorney for the defendant in said cause, and the witnesses, Eugene B. Pendleton and Peleg Clarke, Jr., who were of sound mind and lawful age, and the witnesses were by me carefully examined and cautioned and sworn to testify the truth, the whole truth, and nothing but the truth, and the
336 aforegoing depositions were, by consent of counsel, reduced to writing by a person other than me, the said notary public, but in my presence and in the presence of the witnesses, and from their statements, and after carefully reading the same to the witnesses, they subscribed the same in my presence.

I have retained the said depositions in my possession for the purpose of sealing up and directing the same, with this certificate of the reasons aforesaid for taking said depositions, with my own hand to the court for which the same were taken.

And I do further certify that I am not of counsel nor attorney for either of the parties in said depositions and caption named, or in any way interested in the event of the said cause, named in said caption.

In testimony whereof I have hereunto set my hand and seal this third day of July, in the year of our Lord one thousand eight hundred and eighty-two, and of the Independence of the United States the one hundred and seventh.

[L. S.] SAM'L H. CROSS,
Notary Public.

Fees taxed, $5.

337 United States Circuit Court, Southern District of New York.
In Equity.

THE YALE LOCK MANUFACTURING COMPANY
vs.
THOMAS L. JAMES.

Testimony taken on behalf of the defendant, under and pursuant to the 67th rule of the Supreme Court of the United States, as amended, before John A. Shields, Esq., a standing examiner of said court.

NEW YORK, *March* 7, 1882—1.30 p. m.

Met pursuant to adjournment.

Present: S. B. Clarke, Esq., for defendant, and Thos. Hunt, Esq., for complainant.

FREDERICK FOSTER, a witness produced on the part of the defendant, being duly sworn, deposes and says:

Q. 1. What is your name, age, residence, and occupation?

A. My name is Frederick Foster; my age is 48 years; I reside at Elizabeth, Union county, New Jersey, and by occupation am. secretary of the Safe-Deposit Company of New York.

338 Q. 2. How long have you been connected with the Safe-Deposit Company?

A. Ever since the company commenced business in May, 1865.

Q. 3. In 1865 I believe that the company rented small vaults for the safe keeping of valuables?

A. They did.

Q. 4. Please give me a description of the construction of the safes used by the company and rented in 1865.

A. They were cast in sections, the fronts of them, the number of safes in each section varying with the size.

Q. 5. Can you give me the dimensions of some of these sections that were used in 1865?

A. The sections of the small safes would be about three feet long and two feet high.

Q. 6. In such a section how many safes?

A. I am not positive; in the neighborhood of 40 safes.

Q. 7. How were the safes separated one from another?

A. By wrought-iron partitions.

Q. 8. What was the dimension of each safe, about?

A. Of the small ones, $3\frac{1}{2}$ inches high and $4\frac{1}{2}$ inches wide and about 18 inches deep.

Q. 9. At the front, when uncovered, what appearance did a section of safes referred to present—that of a bank or series of pigeon holes?

(Objected to as leading.)

A. Appearance of a nest of pigeon holes.

Q. 10. About what was the thickness of the wrought-iron partitions between the safes?

A. About $\frac{1}{8}$ of an inch.

Q. 11. When these safes were in the vaults of the company were they open or closed?

A. Closed.

Q. 12. Now, describe how these safes were closed.

A. They were closed by doors formed in the cast-iron front or section covering the openings.

Q. 13. Doors had frames, I suppose?

A. They had.

339 Q. 14. Whether those frames were so arranged as to cover the entire end of the partitions forming the pigeon holes or safes?

(Objected to as leading.)

A. Yes, sir; they did cover the ends of the partitions.

Q. 15. Of what material were the frames and the doors?

A. Of cast iron.

Q. 16. Was there a separate frame for each pigeon hole, or was the frame cast in one piece so as to cover the ends of the partitions of several holes?

A. The frames were cast in one piece to cover all the pigeon holes of a section or nest of boxes.

Q. 17. Doors were supplied with locks, I suppose?

A. Yes, sir.

Q. 18. State how the backs of the safes or pigeon holes were arranged. Were they closed?

A. The backs of all the small ones were closed. The first safes that were made on the same principle of a larger size had no backs; they were set right up against the partition of the vault, which took the place of an independent back.

Q. 19. These larger safes that you speak of, did they differ in their construction from those that you have described?

A. No; except in size and number of safes in a section.

Q. 20. About how large were these larger safes?

A. About 8 by 10 and 9 by 12 inches.

Q. 21. And when were they used by the Safe-Deposit Company?

A. The same year—in 1865.

Q. 22. How were the frames attached to the partitions?

A. By lugs cast into the front or frame; forms a part of the cast-iron front.

Q. 23. Look at the nest of safes before you and state what it is.

A. It is nearly a *fac-simile* of the safes now in use and which have been in use by persons renting the same during and since the year 1865.

Q. 24. You say nearly a *fac-simile*. In what respect is it not a *fac-simile* of those safes?

340 A. The hole in the door was larger and came entirely through the door, allowing the whole face of the hub of the lock to be seen from the front.

Q. 25. What is the hub?

A. The part of the lock projecting through the door into which the key is inserted.

Q. 26. Is there any other respect in which this nest of boxes is not a *fac-simile* of those that were used in 1865?

A. We have never used a safe having as small a lock as the sample produced or with an escutcheon over the key-hole like the one exhibited; in all other respects it resembles the safes which have been used by persons renting them since 1865 to the present time.

Defendant's counsel offers in evidence the nest of boxes referred to and the same is marked Defendant's Exhibit Safe-Deposit Boxes, March 7, 1882, J. A. S., examiner.

Q. 27. Now, referring to the exhibit, tell us how the frames were attached to the partitions in these safes used in 1865.

A. They were riveted to the partitions.

Q. 28. In the exhibit the bolts passed from the lug of the frame in one safe and to the lug of the frame in the next safe and are riveted there, so that one bolt connects the two lugs through the partition. Was that so in boxes used in 1865?

A. They were riveted instead of being bolted to the lug cast on the front frame or section.

Q. 29. Well, they were fastened then as they appear in the exhibit. Is that right?

A. Yes, sir.

Q. 30. And the ends of the partitions were then covered by the doors and their frames, as they are in this exhibit?

(Objected to as leading.)

A. They were.

Q. 31. The sections you have spoken of were of various different sizes to suit, were they?

A. They were.

341 Q. 32. Who made the safes that you have described for the Safe-Deposit Company and used by it in 1865?

A. Valentine & Butler.

Q. 33. The Safe-Deposit Company is a corporation, is it not?

A. Yes; its corporate name is the Safe-Deposit Company of New York.

Direct closed.

The cross-examination of this witness, by request of complainant's counsel, is adjourned to Thursday, March 9, 1882, at 11 o'clock.

Adjourned to Wednesday, March 8, 1882, at 11 a. m.

NEW YORK, *March* 9, 1882.

Met pursuant to adjournment.

Present: Counsel as before.

Continuation of the direct examination of Mr. FOSTER:

(Defendant's counsel states that he will ask a few more questions on his direct examination.)

Q. 34. Mr. Foster, can you give me the date when the first of the safes constructed and arranged as you have described was rented?

A. The first safe rented was of a larger size than "Exhibit Safe-Deposit Boxes," June 3d, 1865; the first safe rented similar to the Exhibit June 23, 1865.

Q. 35. When you say similar to the exhibit, do you mean the same as the exhibit?

A. The same, with the difference noted in my testimony on the 7th.

342 Q. 36. What, if anything, was done in the year 1865 to invite the public to rent these safes?

A. We advertised extensively in the newspapers and by means of circulars distributed.

Q. 37. Whether or not during that year many people came to the vaults and inspected the safes and their construction?

A. A great many responded to the public invitation to inspect them.

Q. 38. Please tell us how the sections of safes such as Exhibit Safe-Deposit Boxes and those of the larger size were arranged in the vaults.

A. They were placed one above another and each section riveted to the next one to it, and also by means of one or more screws through the back end of each section or of safes to the heavy iron partitions separating the vaults.

Q. 39. You say arranged one above another; were they also arranged side by side?

A. Yes.

Q. 40. So that, as I understand, they were both horizontal or vertical tiers or series of sections?

A. They were.

Q. 41. Now, regarding the section as the unit, state whether or not the frames of the section with the doors of the safes presented on the outside a continuous metallic front.

(Objected to as leading.)

A. Yes, sir.

Q. 42. That is, as I understand, the edges of the frames in the horizontal and vertical series of sections abutted; is that right?

(Objected to as leading.)

A. They did.

Q. 43. I will read question 26 and your answer to you—state whether in the safes described and rented in 1865 there was any means of fastening the door to the frame additional to the lock and the hinge?

A. On the larger safe two dogs were on the door itself; on the smaller ones a projection on the lock itself formed the dog.

343 Q. 44. What was the dog's function?

A. To go behind the iron front covering the nest of boxes or pigeon holes.

Q. 45. Where, in New York, were the vaults of the Safe Deposit Company in 1865, and where have they been since?

A. 147 Broadway, corner Liberty street; the safes have remained

there ever since, but the offices of the company have been enlarged twice, so that the entrance is now at 140 Broadway.

Q. 46. Regarding the sections as they were arranged in position, state what their external appearance was.

A. They presented an unbroken front of metallic surface.

Direct closed.

Cross-examination:

Cross-Q. 47. In your answer to the 38th question you speak of each section being riveted to the next one to it; did those rivets pass only through the frames?

A. Through the frames and divisions of these boxes and pigeon holes.

Cross-Q. 48. Mr. Butler, who made the safes, swore yesterday directly to the contrary to your last statement; which do you think is most reliable?

A. I think he ought to be, as he saw them made, but think he is in error in this instance.

Cross-Q. 49. Have you examined the safes particularly with reference to that point?

A. I have not.

Redirect:

Redirect Q. 50. You say the rivets pass through the frames and partitions of the pigeon holes; what do you mean by "and partitions of the pigeon holes?"

(Objected to, as witness has already stated that he has not examined the safes particularly in reference to the point.)

A. In speaking of the frame I meant that part of the frame which constituted the lug, a rivet being passed through which would pass also through the partitions or boxes or nests of safes.

344 Re-recross:

Re-recross-Q. 51. Was there more than one rivet to any of the lugs for any purpose?

A. In those of the smaller size there was but one rivet; I think the same is true of the larger.

Re-recross-Q. 52. Now, when the sections of safes and boxes were delivered before they were put up, were not the frames and doors all riveted and fastened to the metallic boxes by rivets through the lugs?

A. They were.

Re-recross-Q. 53. Then if the lugs only had one rivet each, and before the sections were put up those rivets were employed to fasten the fronts to the boxes themselves, it is very evident that you are mistaken as to the way you supposed the sections were riveted together; is it not so?

A. I think not, for this reason: when the sections are placed together as they are to remain, the frames or fronts being uniform, the lugs

would come opposite each other, one section with another, by cutting off the heads of two rivets, one in each section; one rivet passed through the four holes would secure the sections and the partitions which had been riveted to the lugs.

Re-recross-Q. 54. Then its your supposition, is it, that the manufacturers of these safes went to all the trouble and expense of riveting the fronts to the metallic boxes or safes, and then as soon as they delivered them knocked off the heads of the rivets and put on others; is that your view?

A. No, sir; by referring to my previous testimony, I think it will be found that I said these sections were secured together by one or more rivets, and those of the smaller size by one or more screws through the backs of the boxes or safes to the heavy iron partition dividing the vaults.

Re-recross Q. 55. Are you not also mistaken in the fact that two lugs ever came opposite to each other, there being only two lugs, one on the top and one on the hinge side of each box.

A. I will admit that I am mistaken on that one point of two lugs coming opposite each other in the sections.

FREDERICK FOSTER.
Sec'y Safe Deposit Company of New York.

Adjourned to March 10, 1882, at 1.30 p. m.

345 NEW YORK, *March* 8, 1882—11 a. m.

Met pursuant to adjournment.

Present: S. B. Clarke, Esq., for defendant, and J. E. Hindon Hyde Esq., for complainant.

WM. H. BUTLER, a witness produced on behalf of the defendant, being duly sworn deposes and says:

Q. 1. What is your name, age, residence, and occupation?

A. My name is Wm. H. Butler; I am fifty-six years of age; reside at 314 Union street, Brooklyn, and by occupation am a manufacturer of safes and locks.

Q. 2. How long have you been engaged in that occupation?

A. Over thirty years.

Q. 3. What was your firm name, if you had one, in 1865?

A. Valentine & Butler.

Q. 4. Do you recollect the introduction of small safes into the vaults of the Safe Deposit Company of New York?

A. I do.

Q. 5. What, if anything, did you have to do with it?

A. I planned the boxes and built them.

Q. 6. Will you be so good as to give us a detailed description of the construction of the safes first introduced there, and of the method in which they were put up there?

A. The safes were arranged on each side of the vault, and they were made in sections — convenient sizes for placing in the vault and handling; these sections were about 2½ to 3 feet high and 3 to 4 feet wide, with the number of boxes in each section varying according

to the size of the boxes. In some sections there were different size boxes; some sections were smaller and of different shape in order to fill out and complete the size of the vault; the sections were riveted together; the boxes were made alike in all respects, except the thickness of metal and the sizes; the front frame or sash was made of cast iron, the partitions and back of wrought iron; they were arranged so that both the horizontal and vertical partitions formed the side, top, or bottom of two separate safes; the frame or
346 sash was cast full size for each section, with horizontal and vertical bars or divisions cast with the hinges and the lugs to fasten the frame to the horizontal partition, being the top of one box and the bottom of another; the lugs were at the top to connect with the top of one box which is the bottom of the other; the sash or frame also had projections to allow the bolt of the lock to project under it in front, and also a lug on the other side of the box for the dog at the hinge side of the door to project under it, leaving a space from the edge of the dog to the vertical partition sufficient for the bolt to lock under it without going through the partition; the doors were made of cast iron, with one part of the hinge cast on its outer surface; the doors had small holes through them for the purpose of ventilation; each door had its individual or separate lock, with no two keys to pass the same lock; no key would open two locks.

Q. 7. As I understand, the boxes or safes in any one section were arranged in both horizontal and vertical tiers or series?

A. They were.

Q. 8. You say that the sections were riveted together. I understand by that, that looking at a section as the unit, there was in the vaults of the safe deposit company a series of sections with their edges abutting; is that right?

(Objected to as leading.)

A. That is right—or their sides abutting.

Q. 9. And this was at the time of their first introduction?

A. Yes, sir.

Q. 10. As I understand, each section had a single frame for the whole section?

A. It did; some of them were large, some smaller; some with, perhaps, 30 boxes in a section, and some may have had 5 or 6 only, according as we wanted to fill out and complete each side of the vault.

Q. 11. Now, regarding the section as the unit, state whether when arranged in series as you have stated, the doors and door frames presented a continuous metal front along the whole face of the series of sections, or whether at the junction of any two sections there was a break large enough to give access to the partitions or walls of the section?

(Objected to as leading.)

347 A. It was one continuous front of metal, made up by the doors and the vertical and horizontal bars or partitions between the doors, and each section or sash were riveted together side by side, leaving no joint between.

Q. 12. Were the rivets passed from the frame of one section to the frame of another, or from the box portion of one section to the box portion of another?

A. They passed through the frames with the head of the rivet on the inside of one frame and then was riveted up on the inside of the annexed frame.

Q. 13. Now, what were the horizontal and vertical partitions of the box portion of the safes made of?

A. Made of wrought sheet iron.

Q. 14. Of what thickness at the time of their first introduction in the Safe-Deposit Company's vaults?

A. They were about $\frac{1}{16}$ of an inch thick for the horizontal partitions and about $\frac{1}{8}$ for the vertical partitions.

Q. 15. Were the backs of the box portion open or closed at that time?

A. The first boxes had no backs; they were placed with their rear ends against the partition of the vault.

Q. 16. How long, to your knowledge, were series of safes and sections of safes constructed and arranged as you have described used by the Safe-Deposit Company of New York?

A. My impression is that we placed those boxes there in the spring of 1865; I won't be positive without referring to our books; I commenced on the plans in November preceding the spring that we finished the boxes; they have been used from that day to this.

Q. 17. Look at "Exhibit Safe-Deposit Company's boxes" offered in evidence yesterday when Mr. Foster was testifying, and state what it is.

A. It's the model of a section with four boxes made in the same manner, so far as the frames and partitions are concerned, as those referred to as the first boxes made for the Safe-Deposit Company of New York.

Q. 18. Do you mean to be understood that the doors are not the same as the doors of the first safes made for the Safe-Deposit Company; and, if so, in what respect do they differ?

A. The doors themselves are exactly the same, with the exception that the hub of the lock went clear through the first
348 doors. The doors in the model admit the hub of the lock to go partly through, and the key guide, which is less in diameter than the hub, goes clear through.

Q. 19. Do you find in that exhibit the dog you referred to as made to pass behind the lug or the hinge side of the frame?

A. It is not on either of the three doors that are open, because the doors were so small that there was not room to place the dog on the door, and for that reason on this size box the dogs were fastened on the lock; the lock on the door that is now open is smaller than those used in the first boxes referred to, and neither it nor the door has a dog.

Q. 20. What is the dog, and what is its purpose?

A. It is one or more pieces of metal on a door placed on the hinge side in such a position that it passes under a frame when the door

is closed to prevent the door being opened from the inside if the pins of the hinge were removed or the hinges broken off.

Q. 21. Do you know where "Exhibit Safe-Deposit Boxes" came from?

A. They came from my store.

Q. 22. How long has it been in your custody in its present condition?

A. Well, I should say, probably fifteen or sixteen years. I made it right after or about the same time I made the others—as a model—and kept it for the purpose of exhibiting and taking orders from different institutions.

Q. 23. The frame or sash to which you have referred was, as I understand it, the piece of metal which in this exhibit is painted red on the front.

A. It is.

Q. 24. And that frame or sash covered the entire end of the partitions of the safes first introduced into the vaults of the Safe Deposit Company just as it does in this exhibit?

A. It did.

Adjourned to two o'clock, March 8, 1882.

349 After recess.

TWO O'CLOCK P. M.

Present: Parties as before.

Cross-examination of Mr. BUTLER by F. H. BETTS, Esq.:

Cross-Q. 25. Can you tell exactly when you made the model marked "Defendant's Exhibit Safe-Deposit Boxes?"

A. I can't tell exactly.

Cross-Q. 26. Have you any means of fixing the time?

A. I hardly think we have, unless by the memory of some of our men—I mean the exact time; I could tell somewhere about the time.

Cross-Q. 27. State what you can remember about the time of making this model.

A. I think the model was made about the time that we made the boxes for the Safe Deposit Company or a little after, as this seems to be from the same pattern that we used for making their boxes.

Cross-Q. 28. Aside from the fact that the model seems to be from the same pattern that you used in making these boxes, is there any other fact or circumstance which enables you to say when said model was made?

A. Not to the exact date.

Cross-Q. 29. Is there as to the year?

A. No; I don't know as I could say within a year.

Cross-Q. 30. Do you think you could say within two years?

A. I could not say positively, but I am inclined to think that it was within two years of the time that we made those boxes for the Safe-Deposit Company of New York.

Cross-Q. 31. Can you state positively that it was made within three years after the Safe-Deposit Company's boxes?

A. No; I wouldn't like to swear to the date that it was made exactly.

Cross-Q. 32. Have you any books or records which would enable you to state when the Safe-Deposit Company's boxes were finished?

A. I have, as far as the credits to the Safe-Deposit Company
350 are concerned, when they paid their bills; I think I also have on our register the dates of the delivery of the boxes.

Cross-Q. 33. How recently have you examined these entries?

A. I don't remember of examining them at all; I think that my partner, Mr. Valentine, did examine them.

Cross-Q. 34. Did you ever do any other work for the Safe-Deposit Company besides the erection of these boxes?

A. A great deal and a great variety of it.

Cross-Q. 35. Do you remember how much you charged the Safe-Deposit Company for erecting these boxes?

A. I do not; perhaps I better explain the condition of things there; there are several vaults and they were filled at different periods, one after the other, running along, perhaps, five or six years before they were all completed, so far as the boxes were concerned.

Cross-Q. 36. May it have been even longer than five or six years before the several vaults were filled with boxes?

A. It may have been.

Cross-Q. 37. May it have been as much as ten years?

A. Not for this kind of box; I don't think it was ten years.

Cross-Q. 38. Are you positive about that?

A. I am; I would say that I am making boxes for them constantly, or rather most of the time, different from these.

Cross-Q. 39. Which one of the vaults of the Safe-Deposit Company did you first supply with these boxes or small safes in them?

A. It was the lower one of four of the old or first vaults designated D vault—that is, there is a large vault divided into four parts and this one was the lower or down-town one of the four.

Cross-Q. 40. How many of the sections that you have described as two and a half feet high and three to four feet wide did you deliver to the Safe-Deposit Company when you put in the first of these safe-deposit boxes?

A. The first contract was for the whole vault called D vault; the height of the vault was about seven feet—a little over, I think—and about twenty-five feet long, and we filled both sides of it with boxes of a larger size than the model and several sizes, all larger than the size shown in the model; the sections were convenient sizes
351 to fill up the space; I can't say the number or the exact size of the sections, but they varied in size; there were 505 boxes in the whole vault; I remember that.

Cross-Q. 41. What was the size of the boxes that you supplied to this D vault?

A. I couldn't say exactly.

Cross-Q. 42. What length of time elapsed after constructing these boxes for this first vault before you supplied the company with any more boxes?

A. I couldn't tell exactly, but my impression is that we filled up the C vault at once as fast as we could make them.

Cross-Q. 43. And how did the boxes of C vault compare with those of D vault?

A. They were the same thing, except generally smaller, and there might have been a little difference in the hubs of the locks where they came through the door.

Cross-Q. 44. Can you give us any idea when you commenced filling the C vault and when you completed filling it?

A. My impression is it was about this time of year, in March, when we commenced, and we completed it by the 1st of May, I think. Our books will give the exact date when we delivered those boxes and would also give us the date of payments.

Cross-Q. 45. What time elapsed after that before you commenced to supply the company with any more boxes?

A. I couldn't say, but I think we went right along filling up the second vault, the C vault.

Cross-Q. 46. I mean after the C vault was filled?

A. I couldn't tell; my impression is there was quite an interval, but not a great while, then.

Cross-Q. 47. What do you mean by quite an interval?

A. It might have been three or four months, perhaps; it might have been more.

Cross-Q. 48. Will your books show?

A. Yes, sir.

Cross-Q. 49. In filling the vaults that you have described did you form the sections of boxes complete with their sashes and doors on before they were delivered to the Safe-Deposit Company, or did you put them together in the vaults?

A. No; we finished them complete, with the exception of the painting; the locks and all were on, and they were simply ready to hoist into their places.

352 Cross-Q. 50. How large were the largest of the sections of boxes and how many boxes did such largest sections contain?

A. I couldn't tell exactly. The first or D vault had larger boxes than the model and larger than the majority that were put in the other vaults. I think in the D vault the smallest box was six inches high and eight inches wide; the next was 8 x 10, and the largest 9 x 12. The sections were made so that three sections would fill the height of the vault without regard to size, and I think they were about three feet wide; they would vary; that would make for the small size boxes for the D vault. There might have been twenty-four or twenty-six boxes in a section.

Cross-Q. 51. And what was the size of the smallest and largest boxes and the smallest and largest sections in the C vault?

A. The large proportion of them was the size of the model, which was 3½ inches high by 4½ inches wide in the clear. I think the largest boxes were either 6 inches by 8 inches or 6 inches by 10 inches that were put in the C vault. Now, I am quite sure that the sash would hold forty-nine of this size box—seven each way—the larger boxes; they were put up irregular. There was a row of

large boxes at the bottom, numbering, perhaps, 1, 2, or 3 in height in boxes; then above that would be placed the smaller boxes.

Cross-Q. 52. Did all of the safe-deposit boxes that you made for the Safe-Deposit Company have lugs on the inside of the sashes in the same positions as the lugs in the model, to wit, one lug in the top of each box and one lug at the right or hinge side of each box?

A. All in the first four vaults had them made in that way exactly; after that we put in a different kind of safe, a larger safe; they were stronger and made up from a different plan and placed in what we call the A vault, the northern vault.

Cross-Q. 53. And did the boxes in the first four vaults have no other lugs than such as are shown on the model, Defendant's Exhibit Safe-Deposit Boxes?

A. The larger ones may have had more than one in that place, or they may have been larger and heavier in proportion to the size of the box; they had no other in any other places.

353 Cross-Q. 54. When was it that you put in the different kind of safes in the A vault mentioned in your 52d answer?

A. I can't tell the date; I couldn't tell without referring to our books; it was a good while after.

Cross-Q. 55. A number of years after?

A. I should think it was; it was somewheres about 1868 or 1869.

Cross-Q. 56. Was any work at all done at the Safe-Deposit Company's vault on these boxes except the hoisting them in place and painting them?

A. Nothing at all except, perhaps, fitting them, to make one set square on the other, riveting them together, or adjusting the backs where they may have touched a bar or something of that kind, and screwing on the number plates.

Cross-Q. 57. Won't you state exactly how the sashes were riveted together?

A. They were riveted by first drilling a hole through each sash—as near as we could when they were set up in the factory—and then the rivet was put through both sashes, with the head of the rivet on the inside of one frame and the point of the rivet on the inside of the next frame; it was then headed down, finished off, and when the doors were closed they would cover both the heads and the point of the rivet.

Cross-Q. 58. The rivets did not, then, go through any portion of the wrought-iron boxes, but only through the frames on the fronts of the boxes?

A. That is all; there might have been an exception; I don't know that any went through.

Cross-Q. 59. How lately have you seen these safe-deposit boxes that you supplied to the Safe-Deposit Company in their first four vaults?

A. I was down there last Saturday, I think, for the last time.

Cross-Q. 60. Had any change been made in the boxes or their fitting or mode of connection with each other since you first put them up?

A. Not to my knowledge.

Cross-Q. 61. Were the sections of boxes in any way fastened to each other except by the rivets which held the sashes together?

A. I don't remember of anything of the kind unless there
354 might have been where they came against a column or side of the vault; in that case the sashes might have been fastened to either the side of the vault or the column.

Cross-Q. 62. Are you sure that the sashes were riveted together when the boxes were first put up?

A. I think so; I see no reason why there should be an exception.

Cross-Q. 63. Do you remember anything distinctly about it?

A. Well, I remember that that was the rule and the plan; I can't remember of any exceptions, and yet there may have been.

Cross-Q. 64. You said, in answer to the 52d question, that you made the model, "Defendant's Exhibit Safe-Deposit Boxes," for the purpose of exhibiting it or taking orders from it; did you ever take any orders for such boxes for any other institutions besides the Safe-Deposit Company; and, if so, from whom?

A. We took an order for the Long Island Safe-Deposit Company; my impression is that they were exactly like these boxes; we took an order for some boxes for a safe-deposit company in New Haven, also in Hartford; we also made boxes for the St. Louis Safe-Deposit Company that I am inclined to think were the same, but I am not positive.

Cross-Q. 65. When were these several orders filled, as near as you can state?

A. I think that we got the order from the Long Island in 1868; it might have been '67; I would not dare to say; the books will show; the New Haven boxes at the same time; Hartford also about the same time as the New Haven; the St. Louis boxes were made in 1870; about that time I invented a new box and it may have been of that style.

Cross-Q. 66. You say that about 1870 you invented a new box; did you ever patent that new box?

A. Yes, sir; then I patented another one in 1872; the first one was in 1870.

Cross-Q. 67. Did you ever attempt to patent the boxes like Defendant's Exhibit Safe-Deposit Boxes?

A. No, sir; I didn't have sense enough; I wish I had.

Cross-examination closed.

355 Redirect by Mr. S. B. CLARKE:

Redirect Q. 68. Give us your best present recollection as to the year in which the small safes, as described, arranged in sections connected together, as you have described, were first introduced into the vaults of the Safe-Deposit Company of New York.

(Objected to as incompetent, as it appears by the evidence of the witness that his books are the best evidence.)

A. I can't say anything more than what I have said in regard to the date. I am positive that from our books—the old Valentine & Butler books—you will get the exact dates when each section was delivered.

Redirect Q. 69. The question calls only for your best present recollection; what was the year?

(Same objection, and also as already answered.)

A. In 1865.

Redirect Q. 70. Now, give us your best present recollection as to the year in which "Exhibit Safe-Deposit Boxes" was made?

(Objected to, as the witness has already stated that he cannot state the year.)

A. I should think they were made in 1867, calculating in the same manner as I do the others, but I am not positive.

Redirect Q. 71. In speaking of what was done after the safes were taken to the vaults, the adjustment that you referred to was that of sections and nest of boxes, and not of the individual boxes; am I right?

A. Yes, sir.

Redirect Q. 72. How many vaults were there in which small safes were put originally, and in what order were they filled up with boxes?

A. There was one vault made when they commenced doing business; that vault was in the upper or northern room; now, that vault was divided into four separate compartments, with four separate doors; the doors faced towards the west; the first or northern
356 compartment was called A vault; the next B, the next C, and the next D. Afterwards another vault was made and placed in the adjoining room south from the one described; that was divided into two compartments, with separate doors to each; now, the northern compartment and this vault was called E vault, and the one next to it F vault; the compartments in the following order were filled entirely at separate times with boxes of different sizes, the same as the model in the exhibit and in the following order, viz: D, C, B, and E, which is in the new vault; A vault is partially filled with a larger and heavier description of boxes at a later period, and the F vault is used for the deposit of guaranteed valuables.

W. H. BUTLER.

Read over and subscribed by the witness March 8, 1882.

NEW YORK, *March* 10, 1882—1.30 p. m.

Met pursuant to adjournment.

Present: S. B. Clarke, Esq., for defendant, and Mr. Hoyt, *for* counsel for complainant.

Adjourned *sine die*.

NEW YORK, *May* 2, 1882—3 o'clock p. m.

Met pursuant to notice.

Present: Mr. H. S. Hoyt, of counsel for complainant, and Mr. S. B. Clarke, of counsel for defendant.

WILLIAM T. YOUNG, a witness produced on the part of the defendant, being duly sworn, deposes and says:

Q. 1. What is your name, age, residence, and occupation?
357 A. Wm. T. Young; age, 34; residence, 617 Lafayette avenue, Brooklyn; occupation, clerk in the New York general post office.

Q. 2. How long have you been a clerk in the New York post office?

A. Seventeen years and three months on May 3 of this year; I became clerk Feb. 3, 1865.

Q. 3. When you first became a clerk in the New York post office were there any post-office boxes with lock fastenings used in that post office?

A. There were.

Q. 4. Give me a description of them.

A. They were wooden boxes, about eight inches square and I think about twenty inches deep, with wooden doors, on which were old-fashion locks.

Q. 5. The wooden boxes I understand to have been a series of pigeon holes formed of horizontal and vertical partitions of wood?

(Objected to as leading.)

A. They were.

Q. 6. Do you remember the thickness of the partitions and what sort of wood?

A. I remember the thickness of the partitions, but the kind of wood I couldn't say; it was very hard wood—a white wood in color; the thickness of the partition was about three-eighths of an inch.

Q. 7. Were the doors you have spoken of hinged directly to the partitions?

A. They were not—that is, I don't think they were.

Q. 8. What were they hinged to?

A. They were hinged to a sort of front frame.

Q. 9. Were the doors and the frame of the same sort of wood, so far as you could judge from appearances?

A. I think they were.

Q. 10. Were they the same or different wood from the partitions?

A. Different.

Q. 11. Were they hard?

A. They were hard wood—cherry, walnut, or some dark wood.

358 Q. 12. Were there any portions of the wood of the pigeon holes visible from the front when the doors were closed?

A. No.

Q. 13. That is to say, the frame and the doors made a continuous surface, as I understand you?

A. Yes, sir.

Q. 14. What was the use of the boxes?

A. They were what we called exchange boxes for newspapers, all numbered on the outside so that the people could come and unlock

them and help themselves, as they do now with letter and newspaper boxes.

Q. 15. State what opportunities you had in 1865 for observing the boxes the construction of which you have described.

A. I worked on them; I used to box the papers at night.

Q. 16. Look at the model before you and state how accurately it illustrates the boxes which you have described.

(Objected to as irrelevant.)

A. As a model it is about correct; made from my drawing, I believe.

Q. 17. The boxes were opened at the rear towards the inside of the office, were they not?

A. They were.

The model is offered in evidence and marked "Defendant's Exhibit Wood-Front Boxes (Young"), J. A. S., Ex'r, May 2, 1882.

(Complainant's counsel objects to the introduction of the model offered in evidence as immaterial.)

Cross-examined:

Cross-Q. 18. When you first entered the post-office employ, on February 3, 1865, what were your duties?

A. When I first went in the post office I did what was called "facing up;" by "facing up" I mean that when we dumped a bag of mail we had to face up the addresses on the mail for the
359 convenience of the "sorters," after which I was sent over to another part of the room to learn how to box them.

Q. 19. How long did these boxes remain in use in the post office after you became a clerk there?

A. Till we removed from the old post-office building, in 1875, to the present building.

Cross-Q. 20. Have you seen these boxes since that date?

A. No; I don't think I have.

Cross-Q. 21. You have not seen them since '76, then?

A. I have not seen them since '76.

Cross-Q. 22. You say in answer to your 8th question that the doors were hinged to the front frame; and to the 9th question, that the doors were, you think, of the same wood as the frame; and in answer to the 7th question you are not sure whether the doors were hinged to the partition or not; how do you reconcile these answers?

(Objected to as misconstruing the answer.)

A. I don't exactly understand what you are getting at; I think the answers are all right.

Cross-Q. 23. In your answer to the 7th question you say you do not think that the doors were hinged to the partitions; are you willing to swear that they were not hinged to the partitions?

A. To the best of my knowledge and belief, they were not.

Cross-Q. 24. You say in answer to the 9th question that the doors

and frames were of the same sort of wood, you think; are you willing to swear that they were of the same sort of wood?

A. To the best of my knowledge.

Cross-Q. 25. You say in answer to the 21st cross-question that you haven't seen these boxes since '76; may you not be mistaken in your description of their construction?

A. I think not; I had ten years' experience on them.

Redirect:

Redirect 26. Were you examined as a witness in the case of the Yale Lock Manufacturing Company against the Schoville Company, in Connecticut?

360 A. I was not.

Redirect 27. Do you recollect how the frames were fastened to the partition?

A. I do not.

Redirect 28. Do you know whether or not that they were so fastened in some way?

A. This post that ran up through the centre, I think, the frame was fastened to; by this post I mean the post that supported the second floor of the building at the Liberty-street extension; and then there was another post at the end of the row of boxes; this is supposition; I don't know how they were fastened, but they were fastened as tight as tight could be.

Recross-examination:

Recross 29. You say, in answer to the last question, that the frames were fastened to these posts; were these the only fastenings they had?

A. I don't know; I have stated already it was all supposition as to how it was done.

Recross-Q. 30. Do you know if the frames were fastened to the wooden pigeon holes?

A. They were, I should judge, fastened on the same principle as the model; I answered the question in this way, because I say if there was a row of 140 boxes it would take up more space than this does, and this front, I should judge, was fastened to this post, bringing the fronts tight up to the boxes.

Recross-Q. 31. This is a supposition—your last answer?

A. It is.

Recross-Q. 32. Do you remember the construction of the wooden pigeon holes?

A. A series of pigeon holes about five feet high, about five or six tiers high, and running from twenty to twenty-five feet.

Recross-Q. 33. Are you willing to swear that the pigeon holes were constructed of wood in the same manner as the pigeon holes in the model produced?

A. I could not swear at all on that point; I do not know whether they, the partitions, were continuous or not; I should judge they were like the model; couldn't say for certain.

Recross-Q. 34. You have given your answers describing
361 these boxes from memory; are you sure that you are not mistaken about some of the facts which you have testified to?

A. I think not.

Recross-Q. 35. When you say you answer a question to the best of your "knowledge and belief" do you mean by that that you are willing to swear to the truth of your statement and do not think that there is any chance of your being wrong?

A. I do.

WM. T. YOUNG.

362 United States Circuit Court, Southern District of New York.

THE YALE LOCK MANUFACTURING COMPANY

vs.

THOMAS L. JAMES.

Before John A. Shields, Esq., examiner.

NEW YORK, *July 27th*, 1882—10 o'clock a. m.

Met pursuant to notice.

Present: H. S. Hoyt, Esq., of counsel for complainant, and Sam'l B. Clarke, Esq., of counsel for defendant.

Counsel for defendant offers in evidence a certified copy of the original letters patent No. 119,212, dated September 19, 1871, to Brookes, administrator of Yale, and the same is marked Defendant's Exhibit Original Patent, J. A. S., examiner.

Also a certified copy of reissue patent to Brookes, administrator, July 9, 1872, No. 4963, and the same is marked Defendant's Exhibit 1872 Reissue, J. A. S., examiner.

Also a certified copy of the file wrapper and its contents of said reissue patent No. 4963, and the same is marked Defendant's Exhibit 1872 File Wrapper, J. A. S., examiner.

Also a certified copy of file wrapper and contents in the matter of the appeal to the examiners-in-chief upon the application for a reissue in 1872, and the same is marked Defendant's Exhibit File Wrapper Appeal 1872 Reissue, J. A. S., examiner.

363 Also a certified copy of reissue patent to the Yale Lock Manufacturing Company, April 24, 1877, No. 7625, and the same is marked Defendant's Exhibit 1877 Reissue, J. A. S., examiner.

Also a certified copy of file wrapper and contents in the matter of said reissue No. 7625, and the same is marked Defendant's Exhibit 1877 File Wrapper, J. A. S., examiner.

Also a certified copy of the file wrapper and contents in the matter of the reissue of July 1, 1879, No. 8783, and the same is marked Defendant's Exhibit 1879 File Wrapper, J. A. S., examiner.

Also a certified copy of patent to Asahel Davis, October 8, 1867, No. 69637, and the same is marked Defendant's Exhibit Davis Patent, J. A. S., examiner.

Also a certified duplicate of the model in the matter of said Davis patent, and the same is marked Defendant's Exhibit Davis Model, J. A. S., examiner.

Complainant's counsel objects to the model being offered in evidence, as a certified copy of a model in the Patent Office is not such evidence as can be admitted in this cause.

Also a stipulation, dated New York, June 16, 1882, as to post-office letter boxes in the post office at Fort Wayne, Indiana, signed by the solicitors of the parties to this suit, and the same is marked Defendant's Exhibit Fort Wayne Stipulation, J. A. S., examiner.

Also a certified copy from the files of the Post Office Department of the letter of William L. Burt, postmaster, Boston, to the First Assistant Postmaster General, dated February 8, 1868, and the same is marked Defendant's Exhibit Burt Letter No. 1, J. A. S., examiner.

Also a certified copy of Burt's letter to the First Assistant Postmaster General, dated June 1, 1868, and the same is
364 marked Defendant's Exhibit Burt Letter No. 2, J. A. S., examiner.

Also a certified copy of Burt's letter to the First Assistant Postmaster General, dated June 9, 1868, and the same is marked Defendant's Exhibit Burt Letter No. 3, J. A. S., examiner.

Circuit Court of the United States, Southern District of New York.
In Equity.

THE YALE LOCK MANUFACTURING COMPANY

vs.

THOMAS L. JAMES.

UNITED STATES OF AMERICA, }
Southern District of New York, } *ss:*

I, John A. Shields, an examiner, duly appointed by the circuit court of the United States for the southern district of New York, do hereby certify that the foregoing are the proofs for final hearing taken before me in the above-entitled cause on the part of the defendant under and pursuant to the 67th rule of the Supreme Court of the United States, as amended.

I do further certify that I am not of counsel nor attorney for either of the parties, nor in anywise interested in the event of said cause.

I further certify that Mr. Hunt, Mr. Hyde, and Mr. Hoyt appeared on the part of complainant, and Mr. Samuel B. Clarke appeared on the part of defendant in the taking of said proofs on the days indicated in said testimony.

JOHN A. SHIELDS,
Examiner, &c.

365 U. S. Circuit Court, Southern District of New York.

THE YALE LOCK MANUFACTURING COMPANY

vs.

THOMAS L. JAMES.

NEW YORK, *November* 1, 1882—10.30 a. m.

Met pursuant to notice.

Present: Sam'l B. Clarke, Esq., of counsel for def't, and J. H. Marvin, Esq., of counsel for comp't.

JOHN L. CHAMBERS, a witness produced on the part of the defendant, being duly sworn, deposes and says:

Q. 1. Please state your name, age, residence, and occupation.

A. John L. Chambers; 56 years of age; I reside in Redbank, New Jersey; no occupation at present, having been sick for a year.

Q. 2. State what familiarity you have with the construction of post-office lock boxes.

A. I was a manufacturer of them for over ten years.

366 Q. 3. What was the style or name of the concern with which you were connected?

A. I was the manager and owner of the Johnson Rotary Lock Company during the above period.

Q. 4. When did your connection with that company cease?

A. The company ceased to exist in 1877.

Q. 5. About how many post-office lock boxes did that company make and put on the market during the ten years which you speak of?

A. About one hundred thousand.

Q. 6. What was the construction of those boxes?

A. They were constructed with brass doors and frames connected with a surrounding wood-work, and forming a complete metallic front.

Q. 7. How connected with the wood-work?

A. In some cases by bolts at the sides and corners; at others by flanges projecting inwards and pinned or screwed to wood-work.

Q. 8. Look at the models before you, Defendant's James Exhibits Boxes No. 1 and No. 2, and state whether they correctly show the constructions you have spoken of.

A. They do.

Q. 9. The Johnson Rotary Lock Company put the post-office boxes, of which these exhibits are models, into the New York post office, I believe?

A. Yes.

Q. 10. Please name other offices into which that company put boxes of the construction shown in those exhibits.

A. Pittsburgh, Boston, Philadelphia, Baltimore, New Orleans, Galveston, and San Francisco, and many others.

Q. 11. When did the Johnson Rotary Lock Company commence to manufacture post-office boxes of the construction shown in these exhibits?

A. About 1867.

Q. 12. To your knowledge, were any post-office boxes, having the construction shown in Exhibit 2, in use in the United States as early as 1871?

A. Only by information.

Q. 13. What sort of information do you mean?

A. Written and verbal information; both.

367 Q. 14. From whom?

(Objected to on the ground that it is only secondary evidence and hearsay.)

(Question withdrawn.)

Q. 15. Did the Johnson Rotary Lock Company manufacture and put on the market the construction of boxes shown in Exhibit No. 2 as early as 1871, to your knowledge?

A. Yes.

Q. 16. Was there any year between 1871 and 1877 in which the construction shown in these two exhibits were not made and put on the market by the Johnson Rotary Lock Company?

A. No; they were made right along.

Q. 17. How do you fix the year 1867 as the year in which the Johnson Rotary Lock Company began to manufacture and put on the market post-office boxes of the construction shown in these exhibits?

A. By a patent granted prior to that date.

Cross-examined by F. H. BETTS, Esq.:

Cross-Q. 18. What was the first post office into which the Johnson Lock Company put any metallic front post office lock boxes?

A. It was either Washington or Elizabeth—Washington, I think.

Cross-Q. 19. Prior to putting in any metallic front post-office boxes had they heard of the erection of metallic front post-office lock boxes by the Yale Lock Manufacturing Company?

(Objected to as incompetent and immaterial, and as calling for hearsay evidence.)

A. I don't remember.

Cross-Q. 20. When did you become the manager of the Johnson Rotary Lock Company?

A. About May, 1866.

Cross-Q. 21. In what business was said company then engaged?

A. In general lock business.

368 Cross-Q. 22. Who suggested the idea of the company undertaking the manufacture of metallic front post-office boxes?

A. I couldn't answer that question.

Cross-Q. 23. Why not?

A. It being a stock company, there were many others had the direction.

Cross-Q. 24. Who suggested it to you?

A. I couldn't say.

Cross-Q. 25. Was the Johnson Rotary Lock Company really a corporation or was it a partnership?

A. It was really a corporation.

Cross-Q. 26. When was it incorporated, about?

A. 1865, about.

Cross-Q. 27. In New York; if not, in what other State?

A. In New York.

Cross-Q. 28. Who was the president of the company?

A. It had several presidents.

Cross-Q. 29. Name them all.

A. I can't.

Cross-Q. 30. Name all you can.

A. Clement L. Van Sant, Henry Smith; I cannot recollect, as the changes were frequent.

Cross-Q. 31. Was Mr. A. B. Mullett interested in that company?

A. Never.

Cross-Q. 32. Are you a connection of his?

A. No, sir.

Cross-Q. 33. A friend?

A. Yes; I am a friend of his.

Cross-Q. 34. How long have you been a friend of his?

A. Fifteen years or more.

Cross-Q. 35. In your 17th answer you spoke of a patent by which you fixed the date of your company beginning to manufacture post-office boxes; what patent was that?

A. A patent for a key.

Cross-Q. 36. Granted to whom?

A. Granted to A. B. Mullet.

Cross-Q. 37. Do you remember the date of that patent?

A. November, 1866.

Cross-Q. 38. Was that key used in metallic front post-office boxes that the company made?

369 A. No.

Cross-Q. 39. What connection had that patent with the manufacture of metallic front post-office boxes?

A. No connection at all.

Cross-Q. 40. Then, how does the date of that patent enable you to fix the date when you commenced to manufacture them?

A. Mere memory.

Cross-Q. 41. What is your memory about it?

A. I don't understand the question.

Cross-Q. 42. Have you any memory about commencing manufacturing metallic front post-office boxes that is in any way connected with the patent of Mullett of November, 1866?

A. No, no; I said that some time ago; there was no connection between the patent and the manufacture.

Cross-Q. 43. Was the Johnson Rotary Lock Company licensed under the Mullet patent?

A. The Johnson Rotary Lock Company was not licensed at all, that I know of; it was incorporated.

Cross-Q. 44. Did it have any rights in or under the Mullett patent that you have mentioned?

A. The Johnson Rotary Lock Company bought the Mullett patent.

Cross-Q. 45. When did it buy the Mullett patent?

A. Shortly after the issue.

Cross-Q. 46. In what year.

A. I don't know.

Cross-Q. 47. Could you say whether it was 1867 or 1868?

A. No; it might have been 1866, for all I know.

Cross-Q. 48. Did you have anything to do with buying this Mullett patent?

A. It was bought by the directors of the company.

Cross-Q. 49. (Question repeated.)

A. Not that I remember. I may have given advice to the board. I was not a member of the board or the treasurer.

Cross-Q. 50. Did the company commence to manufacture metallic post-office boxes before or after they bought the said Mullet patent?

A. I couldn't say whether before or after, but about that time; that being the way I fixed the time of the commencement,
370 knowing that I was then acquainted with Mullet and that directed my memory. I have got no books to go by; that thing can be proved by books.

Cross-Q. 51. Then, you think that the company commenced to manufacture metallic post-office boxes about the time they bought the Mullet patent, but you do not remember the year they bought the Mullet patent; is that so?

A. I fix the time of the manufacture of metallic post-office boxes by the fact of the purchase of that patent from Mullet; we were at that time manufacturing locks for the Treasury Department, which came under the supervision of Mullet.

Cross-Q. 52. How does your being acquainted with Mullet direct your memory as to the time of commencing to manufacture metallic post-office boxes?

A. I fix the time as 1867, as I suppose we must have commenced the manufacture that time; it might have been 1868. I have no books to go by; Mr. Mullet was the supervising architect.

Cross-Q. 53. (Question repeated.)

A. No more than because I know I could not have commenced to manufacture metallic post-office boxes without being acquainted with the supervising architect, Mullet.

Cross-Q. 54. Why couldn't you have commenced the manufacture of metallic post-office boxes without being acquainted with Mr. Mullet?

A. I could have commenced.

Cross-Q. 55. Then, what do you mean by your 52d answer?

A. The direct meaning is, that to commence includes a successful operation; Mr. Mullet was supervising architect of the United States and had control, under the Secretary of the Treasury, of the lock-box question, and all goods of that character had to be ordered, submitted to and examined by him.

Cross-Q. 56. Before you commenced the manufacture of any of said post-office boxes, did you secure the approval of Mr. Mullet for your patterns and designs for the same?

A. I shall have to remark right here, as I will have to explain, as I presume that Mr. Betts and Mr. Clark both were informed that the lock boxes were submitted to the Secretary of the Treasury by various parties and became a matter of competition and the contract was awarded at the option of the Secretary of the Treasury and the Postmaster General.

Cross-Q. 57. (Question repeated.)

371 A. No.

Cross-Q. 58. Did you secure the approval of the Secretary of the Treasury and the Postmaster General?

A. No; I did not.

Cross-Q. 59. Did you submit to Mr. Mullet and have examined by him samples, specimens, or designs of the metallic front post-office boxes before you commenced the regular manufacture of such boxes?

A. No.

Cross-Q. 60. Then why did you answer the 55th cross-Q. as you did?

55th answer read to the witness.

A. That answer was made to answer how or why I fixed the date of 1867 as the time I commenced making lock boxes, if I remember right.

Cross-Q. 61. How did the fact stated in your 55th answer enable you to fix the date as 1867?

A. It being subsequent to 1866 I have repeatedly stated that I have no data to go by; I have no books; I have not seen a book on this subject in five years.

Cross-Q. 62. Do you know how long subsequent to 1866 it was when you commenced the manufacture?

A. I do not know.

Cross-Q. 63. You have said that it may have been in 1868; may it have been in 1869?

A. I think it was during 1867 or 1868; the files of the supervising architect will tell you the whole matter.

Cross-Q. 64. (Question repeated.)

A. I think not.

Cross-Q. 65. Why would the files of the supervising architect tell the whole matter?

A. Because the orders issued from there.

Cross-Q. 66. Did you supply any of said metallic front boxes until after you had the competition before the Treasury Department with other parties for the supply of such boxes?

A. I don't think I did; I have no recollection of anything of that kind; the competition was always between the Yale Company and ourselves from the beginning.

372 Cross-Q. 67. Did you know that the Yale Company had a patent for these boxes?

A. No.

Cross-Q. 68. Wasn't you notified of that fact?

A. I was at one or two periods notified of it—yes; I wasn't at the beginning; I don't believe they had a valid patent ever for the the reason that they abandoned it.

Cross-Q. 69. Abandoned it, when?

A. They abandoned it some short time ago; they also abandoned it virtually by abandoning one or two suits which they brought against me; then buying other patents—getting reissues and commencing suit again. That is about all I know about the patent.

Cross-Q. 70. Were you not notified from the beginning that they had an application pending for these boxes?

(Objected to as immaterial and hearsay and not pertinent to the direct examination.)

A. I don't recollect it; the first boxes, as I have said, were made about sixteen years ago.

Cross-Q. 71. Did the Yale Lock Manufacturing Company prosecute a suit against you in the circuit court of the United States in Brooklyn for infringement of their metallic front box patent?

(Objected to as incompetent and immaterial.)

A. Yes; they did.

Cross-Q. 72. Did they obtain an injunction against you under said patent?

(The same objection.)

A. Yes; they did.

Cross-Q. 73. You have said that the Johnson Rotary Lock Company made and put on the market about a hundred thousand metallic front lock boxes; were these erected in the United States or in foreign countries?

A. In the United States.

373 Cross-Q. 74. All of them?

A. Yes; I think so.

Cross-Q. 75. As soon as your company commenced the manufacture of said boxes did they go largely into use or was the introduction of them slow?

A. Very slow.

Cross-Q. 76. During the first three or four years after you commenced to manufacture these boxes about how many of them did you make?

A. I guess forty thousand.

Cross-Q. 77. About how many in the first two years?

A. I have guessed the entire answer and have averaged about ten thousand a year for the four years.

Cross-Q. 78. Don't you remember anything about the number in each year?

A. No, sir.

Cross-Q. 79. Were all these metallic front boxes of which you have spoken made with wooden boxes or pigeon holes and metallic fronts and doors?

A. Yes.

Cross-Q. 80. State the utility of such post-office boxes as compared with ordinary wooden pigeon holes behind a glass sash.

(Objected to as incompetent and immaterial and not pertinent to the direct.)

A. The more speedy delivery of the mail matter.

Cross-Q. 81. State the utility of said boxes as compared with boxes with wooden fronts.

(The same objection.)

A. No difference at all.

Cross-Q. 82. Do you mean no difference to the public or the manufacture?

(The same objection.)

A. No difference to the public.

Cross-Q. 83. Are not the boxes in which there is continuous
374 metallic frontage more secure than the boxes with wooden fronts or with the fronts and doors would be?

A. I don't think they are.

Cross-Q. 84. Why not?

(The same objection.)

A. I think one can be made equally as durable as the other.

Cross-Q. 85. Can wooden boxes be made as secure and durable as metallic front boxes and equally as small and compact?

(The same objection.)

A. I don't know; I have not enough experience to answer the question. I don't know how small I could make them in brass or in wood to answer the purpose. In relation to the hundred thousand boxes, during the second four years I supplied all the larger post offices throughout the United States under the supervision of the supervising architect, Potter.

Adjourned to Friday, November 3, 1882, at 10.30 a. m.

NEW YORK, *November* 3, 1882—10.30 o'clock a. m.

Met pursuant to adjournment.

Present: F. H. Betts, Esq., of counsel for complainant, and Samuel B. Clarke, Esq., of counsel for defendant.

The examination of Mr. JOHN L. CHAMBERS continued by F. H. BETTS, Esq.:

Cross-Q. 86. Did your company, the Johnson Rotary Company, ever make any post-office lock boxes with the fronts and doors of wood?

A. No.

375 Cross-Q. 87. Did they ever make any post-office lock boxes with wooden pigeon holes and metal doors fastened onto the wooden pigeon holes without any metal frame to the door?

A. I think I recollect of making a small nest of thirty, forty, or fifty about the year 1876; I believe those are the only ones I ever made in that style for sale; the boxes I refer to I believe were at Port Morris; they were made during the closing of my business and the height of my difficulties; they were probably the last boxes I sold, and may have been made by my assignees.

Cross-Q. 88. Why did you make that small lot in that way?

(Objected to as incompetent, irrelevant, and as not pertinent to the direct.)

A. Because I think at that time there was an injunction against me; that is the reason, I believe.

Cross-Q. 89. You mean an injunction on the Yale patent?

(The same objection.)

A. Yes, sir.

Cross-Q. 90. Is that the only lot of boxes which you made in that way?

A. That is my impression.

Cross-Q. 91. Who were your assignees mentioned in the 87th answer?

(The same objection.)

A. They were afterwards known as the National Lock Company; the individual names were M. H. St. John, John Whately, American Phototype Company, William Edgerton; I believe that is all.

Cross-Q. 92. Did the National Lock Company thereafter make post-office boxes with metal doors and metal fronts similar to those made by the Johnson Rotary Lock Company?

(The same objection.)

376 A. I think and believe not.

Cross-Q. 93. You spoke in the 87th answer of these boxes having been made in the height of your difficulties. What did you refer to then?

(The same objection.)

A. To the final closing of my business by the injunction.

Cross-Q. 94. Why didn't you go on and make boxes without metal fronts?

(The same objection.)

A. Because I didn't want them.

Cross-Q. 95. Why not?

(The same objection.)

A. (The same answer.) The reasons are private, of my own.

Cross-Q. 96. Returning now to the subject of the time when the Johnson Rotary Lock Company commenced to supply post-office boxes with metallic fronts and doors, please state whether before your company went into that business the Boston post office had been fitted up with such boxes.

(The same objection.)

A. I have no knowledge that it had.

Cross-Q. 97. Had you not heard that it had?

(The same objection and as hearsay.)

A. I don't remember whether I had heard so or not.

Cross-Q. 98. Before you supplied boxes to the Elizabeth and Washington post offices, as stated by you on your last examination, had your boxes been approved and adopted by the Postmaster General?

(The same objection.)

A. I couldn't say.

377 Cross-Q. 99. Do you remember that your company supplied any offices prior to the time when your boxes were adopted by the Postmaster General?

(The same objection.)

A. I do not.

Cross-Q. 100. Is it according to your recollection, then, that the boxes of the Johnson Rotary Company were first adopted by the Postmaster General after a competition of which you spoke at the last meeting, and that then your company proceeded to supply the post offices which you did supply with such boxes?

A. It is.

Cross-Q. 101. If you knew, then, the date of adoption of your boxes by the Postmaster General that would enable you to fix pretty nearly the date when you commenced to supply the boxes, would it not?

A. If I knew the date of adoption of my boxes it would determine whether I furnished any boxes prior to that date.

Cross-Q. 102. Why so?

A. In connection with the dates of my first deliveries.

Cross-Q. 103. But you don't know the dates of your first deliveries, do you?

A. I do not.

Cross-Q. 104. And you have stated that it is according to your recollection that your boxes were first adopted by the Postmaster General, and that then you proceeded to supply the same. Would not the date, therefore, of such adoption give you approximately the date when you commenced to supply?

A. Nothing more than my memory, except I had my books. I should like to state right here that my memory is very defective, and has been, probably, for the last five years. I have been suffering from malaria and bronchitis, and that I have not seen any record of these transactions in five or six years.

Cross-Q. 105. Well, would not the date of adoption give you approximately, according to your present memory, about the date when you commenced to supply?

A. I don't think it would.

Cross-Q. 106. Why not?

378 A. That would be no data to go by. The contract might have been awarded to me. I couldn't surmise how long it was before I received an order or how long it took to prepare and deliver.

Cross-Q. 107. You didn't deliver any boxes before you reeeived an order from the Post Office Department for them, did you?

A. I did not.

Cross-Q. 108. And you didn't receive any order from the Department before your boxes were adopted by the Department in consequence of the competition, did you?

A. No.

Cross-Q. 109. Please look at the paper now shown you and state if you recognize that as one of the advertisements of the Johnson Rotary Lock Company published in the year 1872.

A. I do; yes.

Cross-Q. 110. Does that advertisement of your company give the date when your box was adopted by the Postmaster General? If so, state what that date was.

A. December 18, 1871.

Cross-Q. 111. You have no doubt, have you, but that that is the correct date?

A. No; I have no doubt of that, according to the print here.

The advertisement shown the witness is marked for identification "The Johnson Company Advertisement, J. A. S., Ex'r, Nov. 3, 1882."

J. L. CHAMBERS.

Redirect by SAM'L B. CLARKE, Esq.:

Redirect Q. 112. Do you recollect whether or not at the time this advertisement referred to by Mr. Betts the Johnson Rotary Lock Company had prior thereto commenced the manufacture of metal-front boxes constructed as the model exhibits before you, models 1 and 2, are constructed?

A. I do. They were made about two years prior to that time. That was during the year 1869, under an agreement
379 with the Postmaster General prior to the one referred to in the advertisement.

Defendant's counsel offers the advertisement of the Johnson Rotary Lock Company, and marked for identification by complainant's counsel "The Johnson Company Advertisement," in evidence.

Redirect Q. 113. Do you recollect a competition before a committee consisting of J. W. Edmonds, R. W. Gurley, and James F. Adams in regard to post-office lock boxes?

A. I do.

Redirect Q. 114. Now, had the Johnson Company commenced the manufacture and sale of metallic-front boxes constructed as the models 1 and 2 are constructed prior to the competition before that committee?

A. Well, that committee you refer to, was it the committee appointed December, 1871, or the committee which approved our lock boxes (and they were adopted) during 1869?

Redirect Q. 115. Won't you look at the certified copy of papers I show you and state whether you recognize them as the record of the competition that took place in 1871?

A. I recognize them to be a copy of the report of 1871.

Redirect Q. 116. And the endorsement upon the back is the adoption by the Postmaster General referred to in that advertisement, is it not?

A. It is.

Redirect Q. 117. Now, I understand you to mean that there was an approval of your boxes prior to that time; is that correct?

A. Yes; that is correct.

Redirect Q. 118. And that, prior to that competition shown in the papers, the Johnson Company had commenced the manufacture and sale of post-office boxes like the models 1 and 2?

A. Yes, sir.

Redirect Q. 119. Won't you look at the letters addressed to J. L. Chambers in this bundle and state whether you recognize them?

A. I recognize them as letters received from the supervising architect's office pertaining to lock boxes put into the New York post office.

380 The certified bundle of papers consisting of orders for the New York post office, the committee's report on the 1871 competition, and the Postmaster General's approval offered in evidence by defendant's counsel and marked Def't's Ex. 1871 Competition, J. A. S., Ex'r, Nov. 3, 1882.

Recross-examination:

Recross-Q. 120. Do I understand you to say that there were two committees appointed to report on post-office boxes?

A. Yes.

Recross-Q. 121. And that these two committees consisted of the same persons?

A. I did not say anything of the kind.

Recross-Q. 122. You say, in answer to redirect Q. 113, that you recollect a committee consisting of J. W. Edmonds, R. W. Gurley, and James T. Adams; was that committee the first or the second committee appointed to examine into the post-office boxes?

A. The second.

Recross-Q. 123. Was it the second committee which approved of your boxes?

A. The second.

Recross-Q. 124. Did the first committee approve of your boxes?

A. They did.

Recross-Q. 125. Do you know why the second committee was appointed to inquire into post-office boxes?

A. I do not.

Recross-Q. 126. You have stated that you did not supply any post offices with boxes until after the date December 18, 1871; why did you not supply them after the first committee's approval?

(Objected to on the ground that the witness has not so stated.)

A. I did not say anything of the kind; if such a reply is down I would like to see it.

Recross-Q. 127. Did you receive any orders from the De-
381 partment for your boxes after their adoption by the first committee and before their adoption by the second committee?

A. I did.

Recross-Q. 128. You have stated, in answer to cross-question 108, that you did not receive any order from the Department before your boxes were adopted, and you then stated that that adoption was on December 18, 1871; how do you reconcile this answer with your answer to recross-question 127?

(Objected to on the ground that the witness has not so stated.)

A. I did not make any such answer to question No. 108.

Recross-Q. 129. When you say that your boxes were adopted by the first committee do you mean that they were adopted by the Postmaster General?

A. I do.

Recross-Q. 130. When you state that your boxes were adopted by the Department in consequence of the competition in recross-question 108 do you mean by that they were adopted by the Postmaster General?

A. I do.

Recross-Q. 131. You have stated, in answer to cross-question 108, that you did not receive any orders from the Department before your boxes were adopted by the Department, and you state that you mean by that "they were adopted by the Department;" that they were adopted by the Postmaster General, and you state, in answer to redirect question 110, that the Postmaster General adopted your boxes December 18, 1871; how do you reconcile these answers to recross-question 127?

A. There were two agreements, one in 1871 and the other about two years prior, and I know that I received no order for lock boxes from the Department, for the reason that all orders were based on contract made out by the supervisor and architect, countersigned and proved the Secretary of the Treasury; without such order no payment could be received from the Treasury.

Recross-Q. 132. (Recross 131 repeated.)

A. Can't you put that question in about four or five words?

Recross-Q. 133. You say, in your answer to recross 131, that
382 "there were two agreements, one in 1871 and the other about two years prior, and I know that I received no order for lock boxes from the Department," &c.; please state what do you mean by that.

A. I mean that I received no orders from the Department for lock boxes prior to a contract for the same.

Recross-Q. 134. (Recross 131 repeated.)

A. That the Postmaster General also adopted them about two years prior to 1871.

Recross-Q. 135. You say, in answer to recross 127, that you re-

ceived orders from the Department for your boxes after their adoption by the first committee and prior to their adoption by the second committee; did you fulfill any such orders; and, if so, how many?

A. I have no books from which to give dates or number, and my memory does not aid me.

Recross-Q. 136. You remember that you received such orders between those two dates, do you?

A. I have no doubt of it.

Recross-Q. 137. But you do not remember if you fulfilled them?

A. If I received them I fulfilled them.

Recross-Q. 138. Did you ever supply the post offices without an order from the Department?

A. No, sir.

Recross-Q. 139. And you never received any orders until your boxes had been approved by the Department, had you?

A. No, sir.

Recross-Q. 140. Can you not mention the name of a single place in which you supplied the post office with lock boxes during the time between the approvals by the two committees?

A. I think I can, upon reflection; Georgetown, District of Columbia, and very probably Baltimore, Maryland.

Recross-Q. 141. Cannot you remember any other place?

A. No.

Recross-Q. 142. Were the boxes you put into the post offices in answer to recross 140 metallic-fronted post-office lock boxes?

A. Yes.

383 Recross-Q. 143. Do you remember if you put the boxes into the post office at Baltimore, or into the post office at Georgetown, first?

A. I do not remember.

Recross-Q. 144. Do you remember which were among the first of the post offices you supplied with metal front lock boxes between the two approvals by the Department?

A. I have no recollection at all of it.

Recross-Q. 145. Were your boxes ever approved by the Department more than twice?

A. I believe they were; I believe they were approved three times.

Recross-Q. 146. Can you name any post office which you furnished with metal-fronted lock boxes after their approval by the Department the first time and before their approval a second time?

A. I have answered that once, that I could not recollect any but those I gave you.

Recross-Q. 147. You mean Georgetown and Baltimore?

A. I do.

Recross-Q. 148. You refer, then, to the time between the two approvals referred to in recross-question 140?

A. I do.

Redirect examination:

Redirect Q. 149. In that injunction case Mr. Betts referred to were you examined as a witness?

A. No, sir; there was no testimony taken on my side.

Redirect Q. 150. Why not?

A. Because my attorney "swartwouted."

J. L. CHAMBERS.

Sworn before me—

JOHN A. SHIELDS,
Examiner, &c.

Adjourned to Nov. 9, 1883, at 10.30 a. m.

384 NEW YORK, *November* 9, 1882—10.30 a. m.

Met pursuant to adjournment.

Present: H. S. Hoyt, Esq., of counsel for complainant, and Samuel B. Clarke, Esq., of counsel for defendant.

JAMES GAYLOR, a witness produced on part of defendant, being duly sworn, says, in answer to interrogatories propounded by Mr. CLARKE, as follows:

Q. 1. What is your name, age, residence, and occupation?

A. My name is James Gaylor; I am fifty-four years of age, and reside in Ridgewood, Bergen county, New Jersey, and am by occupation assistant postmaster of the city of New York.

Q. 2. How long have you been in the New York post office?

A. About twenty-seven years.

Q. 3. When was the building now occupied by the post office, New York city, first occupied for the purpose of a post office?

A. The 28th day of August, 1875.

Q. 4. Were the letter and newspaper boxes having metal fronts, of which exhibits before you, Nos. 1 and 2, are models, in the New York post office at that time?

A. They were.

Q. 5. When were they first rented—any of them?

A. The rental of the boxes at the old post office was continued here by assigning to the boxholders boxes bearing the same numbers as those held by them at the old post office.

Q. 6. Mr. James was then postmaster?

A. Mr. Thomas L. James was then postmaster.

Cross-examination:

Cross-Q. 7. What is the usual period of time for which letter boxes are rented?

A. For not less than an official quarter of three months; a person renting a box before the termination of an official quarter is
385 required to pay the rent of the box for the remaining portion of that quarter and for the whole of the succeeding quarter; boxes are not rented for a longer term than would be included under that rule; the official quarters begin on the first days of January, April, July, and October.

Cross-Q. 8. About what date did renters of boxes in the New York post office first receive their mail through boxes similar to those of Exhibits Nos. 1 and 2, which are before you?

A. I have no means of fixing the date even approximately; I simply remember that lock boxes were substituted for the old call boxes at some time during the occupancy of the old post-office building as a post office; I think it was within twenty years.

JAMES GAYLOR.

Sworn before me November 9, 1882.

JOHN A. SHIELDS,
Examiner, &c.

Adjourned to November 15, 1882, at 10.30 a. m.

NEW YORK, *November* 14, 1882—10.30 o'clock a. m.

Met pursuant to adjournment.

Present: H. S. Hoyt, Esq., of counsel for complainant, and S. B. Clarke, Esq., of counsel for defendant.

THOMAS W. SHIELDS, a witness produced on the part of the defendant, being duly sworn, testifies as follows:

Q. 1. What is your name, age, residence, and occupation?

A. My name is Thomas W. Shields; my age, thirty-two; reside in the city of Brooklyn, N. Y.; occupation, clerk in the clerk's office of the circuit court of the United States for the southern district of New York.

Q. 2. You are, I suppose, familiar with the course of business in the clerk's office?

386 A. I am.

Q. 3. You are asked to produce from the files of the clerk's office the record and papers in the case of Silas N. Brooks, administrator, etc., and The Yale Lock Manufacturing Company *vs.* Edward Jones and The Johnson Rotary Lock Company; have you done so?

A. I have.

Q. 4. The docket entries of that case are in equity docket 5, page 293, are they not?

A. They are.

Q. 5. By the course of business in the clerk's office the docket entries indicate the papers that have been filed and the proceeding that have been taken in the cause, do they not?

A. They do.

Q. 6. Please read the docket entries.

A. They are as follows:

1871.

Nov. 11. Filed bill.

Nov. 11. Issued subpœna and tickets.

Dec. 4. Filed subpœna, P. S., on secretary of Johnson R. Lock Company.

Dec. 4. Issued *alias* subpœna.

1872.

Jan. 2. Filed *alias* subpœna, P. S., on E. Jones.

Feb. 26. Filed answer.
M'ch 4. Filed replication.
Sept. 19. Filed consent and entered rule to discontinue.
Dec. 6. Filed and entered decree.

Q. 7. The P. S. indicates personal service, does it not?

A. It does.

Q. 8. Have you also produced the papers in the case of the same complainant *vs.* Edward Jones, John C. Chambers, and The Johnson Rotary Lock Company?

A. Yes.

Q. 9. Won't you read the docket entries in that case?

A. They are on page 483 of equity docket No. 5, and are as follows:

387 1872.
Sept. 24. Filed bill.
Sept. 24. Issued subpœna and tickets.
Nov. 23. Filed subpœna, P. S., on Chambers, secretary, etc.
Dec. 6. Filed and entered decretal order; issued injunction.
Jan. 14. Filed stipulation and orders to set aside default, etc.
Jan. 15. Entered appearance of defendants, by George F. Seymour.
Jan. 15. Filed answer.

Q. 10. I judge that the injunction was never returned, replication never filed, and no proceedings taken in that case since the answer was filed.

A. If there had been, then, in the course of the business of the clerk's office, entry would have been made in the docket denoting such facts.

Defendant's counsel offers in evidence the records in the two cases above described.

Cross-examined by Mr. HOYT:

Cross-Q. 11. How long have you been employed in the clerk's office?

A. Since 1873.

Cross-Q. 12. The only knowledge you have of the suits mentioned in your direct examination is derived from the records of the office. Is that so?

A. Yes, sir; I have no personal knowledge.

THOS. W. SHIELDS.

Sworn to before me—

JOHN A. SHIELDS,
Examiner, etc.

JOHN L. CHAMBERS, a witness heretofore produced on the part of the defendant and duly sworn, being produced for further examination, testifies as follows in answer to questions propounded by Mr. CLARKE:

Q. 1. Mr. Chambers, since your former examination have you
388 made an examination of your papers in order to refresh your

memory as to the time when the Johnson Rotary Lock Company began to put upon the market metallic front lock boxes?

A. I have.

Q. 2. Did you find any papers which refreshed your memory in that regard?

A. Yes, sir.

Q. 3. What are they?

A. Two letters; one from Gen'l Burt and one from A. B. Mullett.

Q. 4. When did you receive those letters?

A. One in the latter part of 1868 and one in the latter part of 1869.

Q. 5. You received them about their dates?

A. Yes.

Letters referred to offered in evidence.

The first, a letter from William M. Burt, postmaster, to J. L. Chambers, secretary, dated July 31, 1868, is marked Defendant's Exhibit Burt-Chambers Letter, November 14, 1882, J. A. S., examiner.

The second, a letter from A. B. Mullett to J. L. Chambers, dated October 28, 1869, is marked Defendant's Exhibit Mullett-Chambers Letter, J. A. S., examiner, November 14, 1882.

Q. 6. Did you know Gen'l Burt, Boston postmaster?

A. Yes.

Q. 7. Are you familiar with his handwriting?

A. Yes, sir.

Q. 8. Is the signature to the Burt-Chambers letter his signature?

A. Yes, sir.

Q. 9. Now, won't you state what your recollection is as to the time when Johnson Co. began to manufacture and sell metal front lock boxes?

A. It must have been in the winter of '69 and the spring of '70.

389 Q. 10. Was Burlington, Vermont, one of the offices in which the Johnson Company put the metallic front lock boxes?

A. Yes, sir.

Q. 11. Consisting, I suppose, of wooden pigeon holes and horizontal and vertical tiers and a metal door and door frame for each pigeon hole, so arranged as to make a continuous metal front?

(Objected to by complainant's counsel as leading; question withdrawn.)

Q. 12. How were the Burlington boxes constructed?

A. They were the same as the model Defendant James Exhibit Box No. 1, except as to some little details.

Q. 13. Details in what part of the structure?

A. In the frames.

Q. 14. How did the frames differ from the frames in Exhibit 1?

A. In the method of fastening to the wood-work.

Q. 15. How are the Burlington frames fastened?

A. They were fastened with lugs similar to Exhibit 2.

Q. 16. Do you know Henry R. Town?

A. Yes, sir.

Q. 17. How long have you known him?

A. I think I have known him ten years.

Q. 18. Have you seen him write and received letters from him?

A. Very frequently.

Q. 19. What relation to the Yale Lock Company have you known him to hold?

A. The presidency.

Q. 20. Look at the paper I show you and state in whose handwriting the signature thereof is, if you know.

A. I do; it is the signature of Henry R. Town.

Letter, dated July 5, 1870, offered in evidence and marked Defendant's Exhibit Town Letter, November 14, 1882, J. A. S., Ex'r.

Q. 21. Mr. Chambers, look at the answer filed in the case
390 of Brooks *et al. vs.* Jones *et al.* (clerk's No. 293, equity docket 5) and the answer in the case of Brooks *et al. vs.* Jones, Chambers, *et al.* (clerk's No. 483 of equity docket 5) and state whether those are two of the cases which you referred to in your former testimony as having been commenced against the Johnson Company by the Yale Company and abandoned.

A. They are two of the cases.

Q. 22. The post-office boxes alleged to have — infringed in those cases were the Johnson Company boxes, constructed as you have described in your testimony, I suppose?

A. They were.

Cross-examination by Mr. HOYT:

Cross-Q. 23. When the two cases referred to in your direct examination as having been begun in this district — discontinued was not a suit begun against you and the Johnson Company in the eastern district of New York for infringement of the same patent?

A. I have no knowledge of it.

Cross-Q. 24. In your previous examinations you have stated that an injunction had been obtained against you and the Johnson Rotary Company in a suit brought against you and the said company by the Yale Lock Manufacturing Company in the U. S. circuit court in Brooklyn; when was that suit begun?

A. I should say in 1876 or 1877.

Cross-Q. 25. Please look at Defendant's Exhibit marked 1871 Competition, which has on the back the approval of the Postmaster General, dated December 18, 1871, and contains the report of the committee, and tell me what the date of the report of the committee is?

A. November 27, 1871.

Cross-Q. 26. Do you remember the lock frame referred to in the letter of W. L. Burt, marked Defendant's Exhibit Burt-Chambers Letter?

A. Yes, I do.

Cross-Q. 27. Did you ever see any of the frames referred to in said letter in use in the Boston post office?

A. I did.

391 Cross-Q. 28. Were they the same as the Johnson Company provided for use in other post offices?

A. They were substantially the same.

Cross-Q. 29. Mr. Burt in his letter says, I have received your lock frame, and goes on to speak of having them fitted to drawers; were these frames substantially the same as were provided for other post offices?

A. No; they were not.

Cross-Q. 30. You stated in your previous examination that Mr. A. B. Mullett—that Mr. Mullett had no interest in the Johnson Company, did you not?

A. He never had.

Cross-Q. 31. The Johnson Company purchased his lock patent did they not, in the year 1866?

A. Yes.

Cross-Q. 32. Did he assign to the company his entire interest in that patent?

A. Yes; he did.

Cross-Q. 33. Can you produce that assignment or a copy of it?

A. I could.

Cross-Q. 34. Was the assignment recorded in the files of the Patent Office?

A. I believe it was.

J. L. CHAMBERS.

Sworn before me—

JOHN A. SHIELDS,
Examiner, &c.

Adjourned to November 22, 1882, at 10.30 o'clock a. m.

392 NEW YORK, *November* 22, 1882, at 10.30 o'clock a. m.

Met pursuant to adjournment.

Present: H. S. Hoyt, counsel for complainant; S. B. Clarke, counsel for defendant.

WILLIAM C. HICKS, a witness produced on part of defendant, being duly sworn, testifies as follows:

Q. 1. What is your name, age, residence, and occupation?

A. My name is William C. Hicks; am 53 years of age; reside at Summit, New Jersey, and am by occupation a mechanical and civil engineer; my office is at No. 19 Park Place, New York.

Q. 2. What familarity have you with the subjects of patents and infringement of patents and inventions?

A. For upwards of thirty years I have been familiar with patents and inventions of a great variety of kinds. For upwards of twenty years I have been frequently called upon to examine patents and machinery covered by them, or supposed to be covered by them, for the purpose of acting as expert in patent causes, and I have tes-

tified in a very great number of patent causes on various subjects before the United States courts in the different circuits, as well as in relation to machinery and inventions, the subject-matters of which were in dispute before the State courts.

Q. 3. Have you read original patent No. 119,212, granted to Brooks, as administrator of Yale, for improvement in post-office letter boxes, and the reissue thereof, on which the bill in this suit is based, No. 8783, and do you understand the same and the subject-matter thereof?

A. I have read said patents and think I do understand the same and the subject-matter thereof.

Q. 4. Will you be good enough to compare the two and state whether, in your opinion, the reissue is for the same invention as the original? Please give the reasons for your answer.

A. As I understand the invention of the original patent of
393 Brooks, the subject-matter of the invention consist in the combination of several individual box frames made of metal, with wooden pigeon holes, in such manner that said frames are united together and to the wood-work of the pigeon holes by means of rivets or the like passing through the sides of each frame and the wood-work which surrounds the frame, so that the frames are adapted and attached to the wood-work and to each other. The frames are described and are shown in the patent as entering within the enclosure of the pigeon holes an appreciable distance, and they fit closely — the inner walls of the wood of the pigeon holes on all sides, and they are furnished with ears, which are exactly opposite each other, so that a rivet put through a hole in one and passing through the wood-work of the pigeon hole will enter a corresponding hole in the ear of the other frame and attach the whole firmly together. In addition to this frame thus far described by me there is a flange extending all the way around to lap over the fronts of the pigeon holes, which partially covers the wood-work of the partition and aids in covering the entire front of the pigeon holes with the metal of the flanges.

As I understand the description of the first claim of the original patent, this flange, which I have thus described, forms no part and the invention is contained in the combination between the frames which enter the pigeon holes with their ears and the wooden pigeon holes united together and adapted to each other by means of the rivets passing through the frames and wood-work. As I understand the description contained in the second claim of the original patent, it is limited by the addition of this flange surrounding the frames, which aids in covering the front of lhe wooden pigeon holes and thus forms a metallic case or frontage for the wood-work, and such iron frontage is thus furnished so that no part can be removed from the outside without pulling down other parts and breaking the wood-work; and so that an attempt to get possession of the contents of the box without a key is practically impossible. The drawing clearly shows the frame which I have described, marked *b*, having four ears with a hole in each, marked *h*, and the flange *a*, to which I have referred, which aids in covering the face of the pigeon holes.

Now, turning to the reissue patent, I find described a plate of metal, *a a*, as the frame; this is the part which is outside
394 in front of the pigeon hole, said frame having an ear, *b b*, which enters the pigeon hole; but this ear may be either continuous or notched out at intervals.

The original patent says: "The sides of the frame *b b* enter and fit closely against the wood forming the pigeon holes and may be continuous or notched out at intervals." The drawing of the reissued patent differs from the drawing in the original patent in that the line above and below *b* in about the centre of figure 2 is entirely omitted, and the ear *b* is made part of the frame of the door at that point. I suppose that the attaching of the ear *b* to the door frame was a mistake, but the omission of the lines shown in the original drawing above and below *b* on that drawing in about the centre of the drawing and to which the ear having the hole *h* is attached omits from the reissue drawing any representation of the four-sided frame to which the ears are attached and which extends into the pigeon holes about three-eighths of an inch in the drawing, causing the reissue drawing to show only an ear connected with the door frame at the centre of the drawing.

At the top of the drawing the ear *b* is represented precisely as it is in the original.

As I understand the description of the mechanism contained in the first claim of the reissue patent, it describes the combination of a series of metallic door frames and doors with a series of wooden pigeon holes in such manner that a continuous metallic frontage is formed, having wooden pigeon holes behind, whereby a series of post-office boxes are made secure from unauthorized interference and more secure than would be the case where there was no continuous metallic frontage without regard to the method of connection between the wood-work and the metal or the peculiar adaptation of the same to each other shown in the original patent.

As I understand the description of mechanism set forth in the second claim of the reissued patent, it is the same as the first, substantially, with the added feature (what I have called a limitation) that the metallic front is attached to the wood-work by rivets or bolts.

I have shown the differences, as I understand them, between these two specifications and drawings; whether the inventions claimed in the two patents substantially differ I am unable to state until
395 I know the construction which the court will give to them. I have endeavored to point out the differences as they appear to me.

Q. 5. Assuming the construction which the court will put upon the original and reissue to be the same as you understand the two, please state whether, in your opinion, the original and reissue are or are not for the same invention.

A. I think they are not.

Q. 6. Give your reasons.

A. I think the reissued patent claims any metallic front for wooden pigeon holes with doors in the metallic front opposite the pigeon

holes, without regard to the adaptation of said front to the pigeon holes, and that the original patent was limited to the adaptation of the front of metal to the wooden pigeon holes, and that adaptation was a peculiar one—that is to say, that the frames entered within the walls of the pigeon hole and were riveted to each other through the wood of the pigeon hole, thus uniting them together and adapting the metal to the wood, and *vice versa*.

Q. 7. Please state whether, in your opinion, the post-office boxes put up in the New York post office, of which Defendant James' Exhibits Boxes Nos. 1 and 2 are models, embody the subject-matter of the original patent.

A. They do not.

Q. 8. Please give your reasons.

A. My reasons why Defendant James' Exhibit Box No. 1 does not contain the invention described in the claims of the original patent are that said exhibit contains no frames such as are described in the original patent which enter within the pigeon hole, and therefore said exhibit does not contain any means for connecting said frames together the same or equivalent to the means shown and claimed in the original patent.

Said exhibit contains neither the frames nor the ears nor the rivets described in the original patent, it is true, and I have taken into consideration the fact that a portion of the metal door frame of Exhibit No. 1 enters into the wooden partition of the pigeon holes far enough to furnish an eye for the lock bolt and a hub to prevent the lock from being pulled off, but that does not make the defendant's frame the frame of the original patent.

The Defendant's Exhibit No. 1 contains a series of pigeon holes with a metallic front composed of individual frames pro-
396 vided with doors, which fronts are held on or before the pigeon holes by bolts which extend from the front of the metal between the frames and through the partitions of the pigeon holes to the rear.

This bolt is headed in front so as to lap over a part of the surface of two frames side by side, and it is screw-threaded on the rear of the partition of the pigeon hole so as to be tightened by a nut. This method of fastening or of combining the metallic front with the wooden pigeon holes is not, in my opinion, equivalent to the construction and method used for the combination in the original patent of Brooks.

In fact there is no special adaptation between the metal and the wood (as in said original patent). In this Exhibit No. 1 the adaptation would be the same and produce substantially the same result if the pigeon holes were of iron, the wood being cheaper and more convenient and lighter, and the material which has been usually adopted for that purpose is used, but there is no special adaptation of parts which is peculiar as between wood and metal.

So far as the result is concerned, Defendant's Exhibit No. 1 differs from the construction shown and described in the original patent, for it is not secure from an attack from any one who chooses to break in without a key. In the patent construction I believe it would be

practically impossible to break into the post-office box therein described and set forth in the 2d claim of the patent, for it has an absolutely continuous metallic front without any opening or seam whatever for a burglar to insert a tool without making a great noise and utterly destroying the connections, whereas in the Defendant's Exhibit No. 1 nothing would be easier for a burglar to do than to bite off the heads of the bolts by mechanical nippers worked by screw power, and without noise to remove one or more of the metallic fronts and enter his hand into a post-office box. Again, the bolts in Defendant's Exhibit No. 1 do not unite the iron frames together, so that one frame is dependent on the other for support and strength; but one frame may be removed by removing an outside bolt without interfering with the bolt of the frame which is next to it—that is, the bolt between two frames—so that the frames are not united together and to the petitions which are between the frames in a manner equivalent to the manner shown in the original patent.

397 Now, referring to Defendant's Exhibit No. 2, I am of the opinion that that exhibit fails to contain the invention described and claimed in said original patent, because it has no continuous frame entering within the pigeon holes in such a manner, or to such an extent, or in such a position as would permit the frames to be united together and to the wood-work between, connecting the frames or their ears with each other and wood-work of the sides of the pigeon holes by means of rivets or the like.

I am aware and I have taken into consideration the fact that there are ears extending into the pigeon holes in Defendant's Exhibit No. 2, and that said ears make part of the metallic frame, and that said ears are fastened by screws to the inner walls of the pigeon holes, but they are attached to the walls of the pigeon holes independently, without having any rivets which pass through from ear to ear, holding the wood-work between them. On the contrary these ears are not in position to be connected with rivets with wood between them—that is, the ear of one frame is not opposite the ear of the other frame, so that rivets could be properly put between them, and so that the hole in one would correspond with the hole in the other to enable proper rivets to be used for riveting them together and to hold the wood securely between them, thus uniting them into a series dependent upon said connections for support and strength.

Q. 9. Have you read the testimony of defendant's witnesses, Foster and Butler, in regard to the boxes of the Safe-Deposit Company of New York, and have you examined Defendant's Exhibits Safe-Deposit Boxes, and do you understand the same?

A. I have, and I do.

Q. 10. Have you read Judge Shipman's opinion in the Yale Lock Manufacturing Company *vs.* The Scoville Manufacturing Company?

A. I have.

Q. 11. Can you state, from that opinion, what the construction of the boxes there held to infringe was and produce a model showing such construction?

A. Said boxes were "a series of separate and complete wooden

boxes, with metallic doors and metallic door frames, the
398 flanges of the door frames being so wide that a continuous metallic frontage is formed, and the frames being closely fastened to the front and sides of the wood-work; when arranged in a series the boxes are secured to each other in this way. Each box is provided on both sides with vertical grooves, and on the top and bottom with transverse grooves. When the boxes are placed in position—*i. e.*, side by side and one above another—wooden pins are placed in these grooves, and thus the boxes are keyed or fastened together." I understand that the box I now introduce is one of said individual boxes.

Box offered in evidence and marked Defendant's Exhibit Scoville Box, Nov. 22, '82, J. A. S., Ex.

Defendant's counsel offers in evidence a certified duplicate of the model filed in the Patent Office with the specifications and drawings of the patent in suit and it is marked Defendant's Exhibit Yale Model, Nov. 22, '82, J. A. S., Ex.

Q. 12. Assuming the construction of the first two claims of the reissue patent in suit to be as you have stated you understand them to be, please state whether or not the Safe-Deposit Company's boxes, in your opinion, embody the subject-matter of these claims.

A. They do.

Q. 13. What are your reasons for your opinion?

A. My reasons are as follows: I understand that said safe-deposit company's boxes contain, substantially as specified in said reissued patent, the combination of a series of metallic door frames and doors, with a series of pigeon holes of metal, whereby a series of post-office boxes, with a continuous metallic frontage, is formed, which, with the exceptions that the pigeon holes of the safe-deposit boxes are of metal and not of wood, and some of them are closed at the ends opposite the doors, and others are open when not placed against the partition closing the back, are the same, in my opinion, as the construction described in the first claim of said reissued patent.

For the same reasons they are the same as are described in
399 the second claim of the reissued patent, with the exceptions I have noticed, because, in addition to containing what is in the first claim, said boxes are constructed with rivets or bolts, which attach the frames to the iron pigeon holes.

I am aware that said safe-deposit company's boxes, as represented by the Defendant's Exhibit Safe-Deposit Boxes, are made up of metallic frames and doors in series of four—that is, four frames and doors are contained in one rectangular casting—and that the wrought-iron pigeon holes are contained in one rectangular case of iron, with sheet iron also for the partitions or sides of the pigeon holes, but yet they contain a series of pigeon holes and a series of doors and frames, nevertheless.

The whole structure is such as would be substantially represented by putting together four separate and independent pigeon holes of metal, faced with four independent frames of metal or iron attached

or riveted together, or united after the manner that the Scoville boxes are united, the Scoville boxes being of wood and the safe-deposit boxes of iron.

The fact that the pigeon holes proper in the safe-deposit boxes are made of iron does not, in my view, prevent them from containing the inventions described in the first and second claims of the reissue under the supposed construction of said claims, for they are pigeon holes having continuous metallic fronts and doors, and there would be nothing to prevent the substitution of wood for the iron pigeon holes, nor would the combination between the two, the pigeon holes and the frames, be substantially different if wood were substituted, because there is no special adaptation between the iron front and the iron pigeon hole which would not be applicable as well to the use of wooden pigeon holes; there is room for the introduction of bolts as in Defendant's Exhibit No. 1, if desired; and there are ears on the metallic frame, one of which enters each pigeon hole, to facilitate the bolting of said iron front to the wood, after the manner shown in Defendant's Exhibit No. 2.

Now, considering the question of series, and of what constitutes a series, I understand from the patent that the connected pigeon holes, after the manner shown in Defendant's Exhibit No. 1, form a series of pigeon holes, and also that separate and independent frames placed side by side and in groups form a series of frames,
400 which, when together, make a continuous metallic front. I understand also that where the pigeon hole is independent and the frame also independent, but united together to form a metallic-fronted pigeon hole with a door, and where those metallic front pigeon holes are piled up one above another and side by side and fastened together, that the said construction would contain a series of pigeon holes combined with a series of frames, and the structure, as a whole, would be that of pigeon holes with a continuous metallic front; therefore, in view of my understanding of the patent, I regard the Defendant's Exhibit Safe-Deposit Boxes to be contained in the subject-matter described in the first and second claims of the reissued patent.

Again, regarding Defendant's Exhibit Safe-Deposit Box as forming one of a series of safe-deposit boxes representing in metal what is shown in Defendant's Exhibit Scoville Box, made of wood faced with metal, I am of the opinion that when said safe-deposit boxes were piled up side by side and one above the other they would contain the inventions described, as I understand it, in the first and second claims of the reissued patent, regarding as I do the change of material from wood to iron in this case as immaterial and as involving no difference in combination and adaptation. My reasons are as follows: I do not think that it would require invention, after having in the state of the art a continuous metallic front, doors, and hinges facing pigeon holes four in number in one frame, one door opening into each pigeon hole, each door having hinges on said frame, to enlarge the door, removing the partitions in said frame, and also the partitions forming the pigeon holes within the outer case, so as to make one larger pigeon hole, with one door, hav-

ing the same construction and mode of operation, substantially as the four doors opposite the smaller pigeon holes. In making the change which I have supposed the structure would have the same kind of metallic front in substance and substantially the same kind of pigeon holes, and so the object would be obtained without the exercise of any more than mechanical skill and common sense. I do not regard the circumstance that the safe-deposit boxes are closed at the back as being material, for the combinations described in the first and second claims of the reissued patent, as I understand them, do not extend beyond the front ends of the structure
401 or the front ends of the pigeon holes. If the rear ends of the pigeon holes of the patent were faced with another set of frames and doors I should regard the structure as one in which the inventions were duplicated.

Q. 14. I believe you have some personal knowledge in regard to the use of these safe-deposit boxes. What is the fact about that?

A. I have. I rented one, I think, in the fall of 1865; it was between the summer of 1865 and the fall of 1866.

(Defendant's counsel offers in evidence a stipulation signed by the parties to this suit under date October 9, 1882, concerning street-washer boxes, stop-cock boxes, and iron safes, and the same is marked Deft's Exhibit Street-Washer Box Stipulation, Nov. 22, 1882, J. A. S., Ex.)

Q. 14. Have you informed yourself as to the state of the art to which the patent in suit belongs?

A. Yes.

Q. 15. In view of the state of the art, what is your opinion as to whether or not the first two claims of the reissued patent in suit show any invention?

A. As I understand them, I think they do not.

Q. 16. Please give your reasons.

A. I understand it was not new at the date of Yale's application for a patent to place a wooden or metallic front with doors before wooden pigeon holes; it was not new to unite a metallic front with doors to pigeon holes having one door for each pigeon hole, as is shown in Defendant's Exhibit Safe-Deposit Boxes; it was not new, moreover, to face a wooden box with a metallic frame and door, as is shown in Defendant's Exhibit Street-Washer Box Stipulation. Having in the state of the art wooden or metallic pigeon holes, faced with a continuous metallic front with a door for each pigeon hole, but in a frame containing a number of doors combined together, I think it would require no invention to put together wooden boxes faced with metallic frames containing doors, as in said washer-box stipulation, for the purpose of making a metallic front for a series of post-office boxes by piling up one above the other.

(Complainant's counsel object to that part of the answer
402 which refers to Defendant's Exhibit Street-Washer Box Stipulation as no wooden pigeon hole or holes with metallic frame and door is shown in the stipulation, and further objects to the

answer as there is no evidence of a pigeon hole with metal frame and door being known previous to the time of the invention of Yale.)

Adjourned for cross-examination to Monday, —— 27, 1882, at 10.30 o'clock a. m.

NEW YORK, *November* 27, 1882—10.30 o'clock a. m.

Met pursuant to adjournment.

Adjourned to November 28, 1882, at 10.30 o'clock a. m.

NEW YORK, *November* 28, 1882—10.30 o'clock a. m.

Met pursuant to adjournment.

Present: Samuel B. Clark, Esq., of counsel for defendant, and F. H. Betts, Esq., of counsel for complainant.

Mr. HICKS present for direct examination:

Q. 17. Comparing the metal cover and metal cover frame of a street-washer box, as described in the stipulation with one of the doors and frames of the original of the patent in suit, please state the result of the comparison as to identity.

A. I think they are substantially the same.

Q. 18. Please give your reasons.

A. As I understand the article described in the stipulation, it contains a metallic frame constructed to enter a rectangular box opening with a door hinged to the frame and connected with it.

403 All around the front face or edges of said frame is a flange, so that it may cover the whole or a portion of the ends of a rectangular box. This is substantially the same construction as is described and shown in the original patent. I refer in this comparison particularly to the article shown in Fig. 1 of the drawing of the stipulation.

Cross-examination by Mr. BETTS:

Cross-Q. 19. You stated in answer to the three questions that you had read and believed that you understand the original Yale patent, No. 119,212, and the reissue, No. 8783; have you carefully considered all parts of those two grants?

A. I think I have.

Cross-Q. 20. Do you state, in answer to the tenth question, that you had read Judge Shipman's opinion in the case of The Yale Lock Manufacturing Company *vs.* The Scoville Manufacturing Company; have you carefully considered all parts of that opinion?

A. I think I have.

Cross-Q. 21. Is your opinion that you expressed in your direct evidence, in answer to the several questions propounded to you, founded upon an agreement with Judge Shipman in the views expressed by him in that opinion or upon a disagreement with said opinion of Judge Shipman or any part thereof?

A. As I understand it, in agreement with said opinion.

Cross-Q. 22. Is there any portion of said opinion with which you disagree?

A. I don't know of any.

Cross-Q. 23. That opinion may, then, so far as it extends and to the extent of the subject of which it treats, be considered as a substantial expression of the opinion that you hold?

A. I should rather say that it is an expression of the opinion that I would have held if I had had the same facts to consider as he had.

Complainant's counsel here offers in evidence a certified copy of said opinion as part of the cross-examination of this witness, and the same has been already marked as an exhibit.

404 Cross-Q. 24. Is it your opinion that the defendant's post-office boxes, marked Defendant James Exhibit Boxes Nos. 1 and 2, embody the invention or inventions described in the first and second claims of the Yale reissue No. 8783, as the said claims are construed in said opinion of Judge Shipman, with which I understand you to agree?

(Objected to, as to counsel's understanding, on the ground that there is no basis in the evidence therefor.)

A. Yes.

Cross-Q. 25. Have you read and do you understand the reissues of the Yale patent which were had between the date of the original patent, No. 119,212, and date of reissue, No. 8783?

A. I believe I have read them casually, but I have not given them any special consideration, and I cannot say that I understand them.

Cross-Q. 26. Have you read the record of evidence which was introduced in the case of The Yale Lock Manufacturing Company *vs.* The Scoville Manufacturing Company, so as to understand what facts Judge Shipman had before him in rendering the opinion already referred to?

A. I did read said testimony soon after the opinion was rendered, and I understood at the time the facts which Judge Shipman had before him; this, as I remember, was about eighteen months ago; since that time I have not read either the opinion or the evidence, except so much of it as has been incorporated in this case.

Cross-Q. 27. When you considered said opinion and evidence as stated by you, were you then retained as expert for the defendant herein?

A. I think not; I think I was retained soon after.

Cross-Q. 28. Were you furnished with this evidence by the United States district attorney, who had charge of this case at the time that you read it, as above stated, and preparatory to your retainer?

A. Yes; I think that is about right, but I think that some of the testimony, in the form of exhibits, I first saw in Hartford, after my being retained.

Cross-Q. 29. In your fourth answer you gave a statement of the invention which you understand to be described in the
405 original Yale patent, No. 119,212; I do not quite comprehend your view of the scope of the second claim of said original patent; please explain your understanding of that claim more clearly.

A. I understand that the words "the above," in the beginning of that claim, refer to what is described and claimed in the first claim of said original patent, and that the words which follow have the same effect as if they had been added to or incorporated in the first claim, so that the flanges making part of the frames and protecting and inclosing the exterior wood-work would add another element to the combination of parts recited in the first claim.

Cross-Q. 30. Do you regard the above construction as entirely clear, or do you regard said second claim as at all ambiguous or doubtful in construction?

A. I think it is a poor way of expressing the claim, but it does not seem to me to be doubtful or ambiguous, for it used to be a very common expression in claims.

Cross-Q. 31. Do I understand you in your fourth answer to express the opinion that the combination claimed in the first claim of the Yale original patent, No. 119,212, embraces a combination of several box frames which do not have flanges around them which cover and protect the edge of the wood-work which forms the pigeon holes?

A. My opinion is this: that the claim would cover said frames in combination whether they had flanges or not, meaning by that that the flanges are not necessary elements in the claim.

Cross-Q. 32. Then is it your opinion that said first claim of said original patent covered the combination of box frames which, when arranged together, would not make a continuous metal frontage?

A. Yes.

Cross-Q. 33. Do you find in the body of the specification of said original patent, No. 119,212, any box frames described which do not project over and aid each other in covering the edges of the wooden partitions or pigeon holes?

A. No; but whether it covers the entire wood-work and makes a metallic front depends upon the relative proportion between the width of the flange and the edge of the wood-work of the pigeon holes.

406 Cross-Q. 34. Is there any combination of frames and boxes described in the body of the specification of said original patent in which the door frames do not cover the edge of the different partitions and form, when placed together, a continuous metallic frontage.

A. That is the only way that it is shown in the drawings and described in the body of the specification.

Cross-Q. 35. Then, according to your view, the first claim of said original patent covers something which is not shown or described in the body of the specification or in the drawings; is that so?

A. Oh, no; that is not so; it claims less than is shown, and also a perfectly operative combination, which is always the case where there are several claims?

Cross-Q. 36. But do I not understand you to say that the claim covers the combination of box frames without flanges which is not shown or described?

A. No; I say the claim covers what is stated in the question, but

the frames are shown projecting into the pigeon holes, having flanges on them on the outside; I don't mean to say that the flanges are shown cut off in the drawing, but the flanges may be left off, and the remaining parts contain the combination of the first claim.

Cross-Q. 37. When the first claim claims the combination of "several box frames," do you not understand that the "frames" there referred to are the frames described in the body of the specification?

A. Yes; I do.

Cross-Q. 38. Do you not find such "frames" described only as made with flanges, the phraseology being "each door frame or box front is so made that it aids in covering the edge of the wooden partition or pigeon holes?"

A. No; I find more than that; I find "the sides of the frame *b b* enter and fit closely to the wood forming the pigeon holes, and may be continuous or notched out at intervals;" again I find these words, "Each frame, made, as before stated, of metal, has around it a flange, *a a*, which protects the outside wood-work; it is these flanges, *a a*, connected to said frames, which, I think, are specified in the second claim as flanges making part of the frames.

407 Cross-Q. 39. You have not quite answered the first part of the last question prior to the quotation.

A. Then I say that I think the frames are described independent of the flanges, referring to the quotations which I have given. I don't mean to say, now, that the frames, as shown and described, are represented without flanges, but that there is a separation or distinction made in the specification of the flanges from the frame, although they are made in one piece together, and so shown.

Cross-Q. 40. In your 34th answer you testified that the only way in which any combination of frames is shown in the drawings and described in the body of the specification is that in which the door frames cover the edges of the partitions and form a continuous metallic frontage. Do you mean to modify that answer?

A. No.

Cross-Q. 41. And do not such frames form such continuous metallic frontage by reason of the flanges forming part of the same?

A. Yes; by them and them only.

Cross-Q. 42. Now, as the second claim expressly refers to "the flanges making part of the frames," and as such frames are an element of the first claim, would not such construction as you have given to the 2d claim make it doubtful whether it does not embrace the same subject-matter only as is described in the first claim?

A. No; I think not. I have no doubt about it.

Cross-Q. 43. Would you not consider it doubtful, in view of the fact that the "frames" referred to in the first claim are only shown and described with "flanges," whether or not said first claim may not cover only the subject-matter of the second claim?

A. If the second claim were not in the patent showing clearly to my mind what the intentions of the inventor was, I think it would be fair to include the flange as part of the frame, as recited in the first claim, but the distinction is so unmistakable in my view, when

we have the second claim before us, that I cannot read the flanges as an element of the first claim.

Cross-Q. 44. Do you regard the pigeon holes as an element of the second claim?

408 A. Yes; certainly.

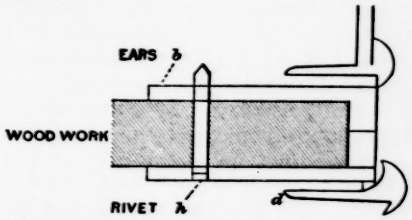
Cross-Q. 45. Do you regard the construction of the first claims as strictly limited to the mode of invention shown in the drawing?

A. No; not exactly in detail. I think an equivalent method of fastening the ears together and clamping the wood-work together would be included in the first claim.

Cross-Q. 46. Such as what?

A. Putting a bolt through with a nut on each end, or head on one end and nut on the other.

Cross-Q. 47. Suppose a rivet was used which passed through opposite ears of adjacent frames and through the wood-work between them, and such rivet was without any head or nut on one end of such rivet, would you regard that as a method of fastening included in the first claim, thus:



A. If I understand the construction—no.

Cross-Q. 48. Not if the rivet was firmly held in place by its friction in the wood?

A. No; it would be no rivet at all unless it was headed up.

Cross-Q. 49. Suppose in place of a single rivet, such as is shown in the drawings of the patent, two nails were used, one entering on one side and one entering on the other, and each extending (by a slight deflection from a straight line) substantially through the wood-work, but not through the ear of the adjacent frame, would such arrangements of parts, in your opinion, be included in the first claim?

A. I don't think it would.

Cross-Q. 50. Were not each of the methods of fastening the frames described in the last two questions ordinary known modes of fastening at the date of said Yale patent, which any ordinary mechanic, after seeing the Yale patent, could employ of his ordinary knowledge and skill?

409 A. Not the first construction, and the second, with the nails, would hardly be employed in such a place—screws would be better—such are ordinary known modes for fastening things, and anybody could use them; but if they did they would not have the construction or mode of operation described in the patent in that case.

Cross-Q. 51. Then it is your opinion that the phraseology of the Yale patent was so limited that it would not cover such ordinary known methods of fastening as are referred to in the 49th question and answer?

A. No; hardly that; if the mere change of fastening did not change the spirit of the invention I would not regard it as material. In my opinion the patent was limited to this method of fastening for the benefits and results to be obtained from the peculiar combination between the frames and wood-work, supposed by the inventor then to be necessary.

Cross-Q. 52. Is it your opinion that the real benefit of the combination of wooden pigeon holes with metal frontage, formed by the fronts of contiguous boxes, was in fact dependent upon the special method of fastening illustrated and described in the original Yale patent?

(Objected to on the ground that the patentee cannot be allowed to show by evidence that what he has described and claimed as material is in fact mechanically immaterial.)

A. No; the patentee, however, says, "When the frames are all in place each frame is riveted to its four neighbors (see *h b*, Fig. 2), and thus a continuous iron frontage is formed."

Cross-Q. 53. Do you regard the special mode of fastening described by Yale as the best mode known to you for attaching metal fronts to pigeon holes?

A. No.

Cross-Q. 54. What other mode do you know of which would, in your opinion, be better?

A. Almost any mode that did not require the frame to fit inside the pigeon hole, for the variation in the size of pigeon holes and the relation of pigeon holes to each other is often such that a casting for a frame with a flange on it would strike its neighbor frame unless all the frames were made too small; other modes of fastening, which were not hampered by the dimensions of the pigeon hole, are more readily put up in front of pigeon holes, for instance, Defendant's Exhibit No. 1.

Cross-Q. 55. Do you regard the special mode of fastening described by Yale the best mode of fastening, so far as security is attempted, for fastening metal fronts to the pigeon holes?

A. I think it shows the best mode of fastening, in a general way—that is, without any openings in the iron front.

Adjourned to Monday, December 4, 1882, at 11 o'clock a. m.

NEW YORK, *December* 4, 1882—11 o'clock a. m.

Met pursuant to adjournment.

Present: Counsel as before.

Cross-examination of Mr. HICKS continued:

Cross-Q. 56. In your opinion, did it require "invention," as distinguished from mere mechanical skill, after Yale had shown in his

patent its metallic points connected to the wood-work by rivets, which also fastened the ears of adjacent frames to each other, to connect such fronts to the wood-work by screws or pins or nail, which did not fasten together the ears and adjacent frames?

A. In my opinion, it did not.

Cross-Q. 57. In your direct evidence you referred to a difference between the drawing attached to the original patent and that attached to the reissue 8783. Please state whether, in your opinion, the absence in the reissue drawing of the line in question makes the structure shown in the reissue drawing one which is substantially different from that shown in the drawing in the original patent.

A. I think that is a matter for the court to decide; I have stated the difference in the drawings; I don't think there would
411 be any very material difference between the two drawings in principle if it were not for the fact that the specification of the reissue describes the part which enters the pigeon hole as an ear, *b b*; now, in the original drawing the frame, as a rectangular structure, enters within the pigeon hole, fits it on all four sides, and has four ears connected with it; the modified drawing of the reissue patent fails to represent such a rectangular frame, as I have just described, by omitting the line that shows it in the original.

Cross-Q. 58. You have not stated your own opinion as a mechanical expert, which opinion was called for by the question. Please do so.

A. I think the difference is material in one aspect, in that it would seem to me to present a limitation of the claims to substantially the structure shown in the original patent; but, if the reissue is to have the broad interpretation which I have placed upon it or supposed it to have, then I don't think it material.

Cross-Q. 59. Please put out of your mind any supposed legal construction of phraseology of the original and reissued patents and answer the question simply as a mechanical expert. In your opinion, is the structure shown in the reissue drawing one which is substantially different from that shown in the original drawing?

A. Yes.

Cross-Q. 60. Then why did you say, in answer to the fifty-seventh cross-question, that you "don't think that there would be any material difference between the two drawings" if it were not for certain phraseology in the reissue?

A. Because I thought so. The peculiar wording of the last question and its limitation forced the answer I gave. In that answer I simply considered the structures one made from each drawing, placed side by side, and I say they would be materially different without regard to the subject-matter of the descriptions and claims of the two patents—that is, the original and the reissue.

Cross-Q. 61. Do you regard the structure shown and specifically described in reissue 8783 as embodying the invention described in the two claims of the original patent?

A. No.

Cross-Q. 62. Why not?

412 A. Because what I understand the frames described in the original patent to be they are the rectangular projections which enter the pigeon hole and fit it on four sides. I think those frames are not shown in the drawings of the reissued patent, and that ears *b b* are substituted for them.

Cross-Q. 63. Might not the continuous projections that you say enter the pigeon holes in the original patent be non-continuous or made merely as ears or projections at intervals and yet the structure embody the invention described and claimed in the original patent?

A. I don't think so. I think they might be undulous and ears *b b* as they are shown in the drawing of the original, and I think the ears might be left off and the rivets go through the frames from one to the other and still embody the invention; but I think that we could not leave out the frames, as described, and have the substance of the invention of the original patent.

Cross-Q. 64. What useful function, so far as the invention claimed in the original patent is concerned, would be found in a combination of frames in which the frames enter the pigeon holes by a continuous projection around all four sides of the pigeon hole which would not be found in a combination of frames in which the frames entered the pigeon holes by ears or projections which were not continuous?

A. With the second claim, where there was a flange all around the frame, I don't think it would make much difference, but when we come to the first claim the difference would be very material, for if the flange was left off the frame, if only ears were left as a part of the previous frame, the post-office box would be open the thickness of the frame all the way around, except at the ears.

Cross-Q. 65. Then is it your opinion that the structure described and shown in the reissued patent 8783 does embody the invention claimed in the second claim of the original patent, but not the invention claimed in the first claim of the original patent?

A. In my view it embodies the invention described in the second claim of the original patent in a very much broader sense, but that it does not embody the invention described in the first claim of the original patent.

413 Cross-Q. 66. Which claim of the original patent do you consider the broader claim—the first or the second?

A. As containing less elements, the first.

Cross-Q. 67. That makes it a broader claim, does it not?

A. In the sense referred to in my answer, yes.

Cross-Q. 68. Wouldn't any structure which embodied the invention of the second claim necessarily embody also the invention of the first claim?

A. Yes.

Cross-Q. 69. Then won't you please explain how it is that in your opinion the structure shown and described in the reissue 8783 embodies the invention of the second claim of the original patent, but does not embody the invention of the first claim?

A. Because the substance of the invention set forth in the second

claim is that which makes up the metallic front, and no such idea is conveyed by the first claim of the original patent as a necessary element of the claim, and the subject-matter of the reissued patent and its gist of invention is a metallic front.

Cross-Q. 70. That does not answer the question. You have testified that the first claim is so broad as to include the second claim, and you have testified that the structure described in the reissue embodies the invention of the second claim; now, I want to know how you can consistently say it is not also included under the broader first claim.

(Objected to, because the counsel misrecites the testimony of the witness.)

A. I find no difficulty in that. Because a claim is broader it does not necessarily follow that it contains an invention which is only attained by a part additional thereto, which would, of course, contain more elements and therefore would be more limited; the importance of the addition may be ten times as great as the first combination and yet be not described in the first combination as a part necessary to the construction.

Cross-Q. 71. You have not answered the question at all or explained the dilemma you are in; can't you give any better explanation?

414 A, No; I think that's a very good one that I have given; I don't feel the pressure of the dilemma.

Cross-Q. 72. In your 65th answer you have stated that in your view the structure described and shown in the reissue 8783 embodies the invention described in the second claim of the original patent "in a very much broader sense;" what did you mean by those last words?

A. I mean that in my view the claim in the reissue is so broad that the limitations set forth in the second claim of the original patent, so far as method of fastening is concerned, and that the wood of the pigeon hole is bound between the ears and the frames, is practically stricken out, and that the substance of the claim in the reissue is such a construction broadly as would be contained in any series of wooden pigeon holes faced with metal frames and doors.

Cross-Q. 73. Has the 65th question any reference to the claim of the reissue?

A. I understood that it had when I answered the question, and I had in view the claim of the reissue as well as the specification when I gave the 65th answer.

Cross-Q. 74. Won't you please now answer the 65th question again?

A. Much is made of the advantage of the metallic front in the reissue description and drawings, and the gist of the invention seems to me to be, in the reissue, a combination between metallic front and wooden pigeon holes. I don't see how I can compare the mere description and what is shown in the reissued patent with the claim of the original patent, but I will say this, that I think that if the second claim of the original patent was a claim attached to the

specification of the reissued patent I would find the description sufficient to understand it, for I think that it would explain any doubtful points in the specification.

Cross-Q. 75. I don't see why a mechanical expert can't compare the mere description and drawing of the reissued patent with the claims of the original patent. You have repeatedly compared structures and the descriptions of structures with those very claims in this examination, and I therefore again ask you to make the comparison and answer the 65th cross-question.

A. I don't see how I can do it any better than I have, but
415 I will try. I do not find described in the specification of the reissued patent what I understand to be designated in the second claim of the original patent—the frames which enter the pigeon holes. With this exception, I think the substance of the second claim is shown and described in the reissued patent.

Cross-Q. 76. In your 64th answer you testified that, in your opinion, *that* whether the frames had continuous projections or only ears would, so far as the second claim of the original is concerned, not make "much difference." Having that answer in view, will you please state definitely whether, in your opinion, the structure described and shown in reissue 8783, it does or does not embody the invention claimed by the second claim of the original patent?

A. Not as I understand the second claim of the orignal patent.

Cross-Q. 77. In your 69th cross-answer you said: "The substance of the invention set forth in the second claim is that which makes up the metallic front." In your opinion, does a continuous projection, as distinguished from ears within the wooden pigeon holes, have anything essential to do with making the metallic frontage?

A. No; not of the metallic front proper, but it is made part of the claim, and the claim is limited to it in the original patent. The construction described in said claim was one way of supporting a metallic front.

Cross-Q. 78. Is it plain to your mind from reading the original patent what the real gist, in substance, of the invention set forth in the second claim is?

A. I think so.

Cross-Q. 79. Then, in your opinion, is the second claim so limited as not to protect the real substance of the invention, but to limit the patentee to the use of a feature which, as you say in your answer to the 77th cross-question, was one way of supporting a "metallic front?"

A. In short, I think the claim was limited to one way of supporting a metallic front.

Cross-Q. 80. And hence, in your opinion, so worded as not to protect the real gist and substance of the invention?

A. It protected the gist of the invention as described by the
416 inventor in the second claim, but in my view, so far as anything is disclosed in the original patent to the contrary, he might have made a much broader claim.

Cross-Q. 81. And do you regard the first claim as also limited by the same detail of construction, to wit, a continuous projection within around the four interior sides of the pigeon holes?

A. Yes; that, or substantially that.

Cross-Q. 82. In your opinion, do defendant's post-office boxes, "Exhibits Defendant's James Exhibit Boxes No. 1 and No. 2," embody the invention described in the first and second claims of reissue 8783 as said claims have been construed by Judge Shipman in the Scoville Company case?

A. As I understand such opinion, yes.

Cross-Q. 83. In your opinion, does a change of material in the structure of an article never require invention, as distinguished from mere mechanical skill?

(Objected to as immaterial and irrelevant.)

A. Sometimes it does.

Cross-Q. 84. When, in your opinion, does a change of material call for invention, as distinguished from mere mechanical skill? I refer now to cases where no change of form in structure is made, if there be any such.

(Same objection.)

A. I can't call to mind all the cases. Where change of material becomes a necessary element to give the combination a different mode of operation than it would otherwise have, then the change of material would be more than that required by the mere exercise of mechanical skill, unless it simply took the place of a material performing the same functions before in the same connection.

Cross-Q. 85. Where the change of material in a structure or in a part thereof adapts the structure as a whole to a new use, may it be said fairly that such change of material in connection with such adaptation to a new use involve "invention?"

(Same objection.)

417 A. If it was necessary to the new use, yes.

(Cross-examination closed.)

WILLIAM C. HICKS.

Sworn before me—

JOHN A. SHIELDS,
Examiner, &c.

418 DEFENDANT'S EXHIBIT 1871 COMPETITION. J. A. S., Ex'r, Nov. 3, 1882.

UNITED STATES OF AMERICA:

[L. S.]

TREASURY DEPARTMENT, *April* 27, 1881.

Pursuant to section 882 of the Revised Statutes, I hereby certify that the annexed are true copies of papers on file in this Department.

In witness whereof I have hereunto set my hand and caused the seal of the Treasury Department to be affixed on the day and year first above written.

[L. S.] WILLIAM WINDOM,
Secretary of the Treasury.

TREASURY DEPARTMENT,
OFFICE OF THE SUPERVISING ARCHITECT, *March* 25, 1874.

J. L. Chambers, Esq., 30 Vesey street, New York city.

SIR: There are required for the U. S. court-house and post office at New York city—

5,000 No. 2 lock boxes, together with the necessary fixtures.

The numbers for these boxes will be sent you as soon as possible.

You will please put these boxes in hand at once, and, when
419 ready, send them to this Department for inspection, in the usual manner.

Very respectfully, A. B. MULLETT,
Supervising Architect.

TREASURY DEPARTMENT,
OFFICE OF THE SUPERVISING ARCHITECT, *April* 24, 1875.

J. L. Chambers, Esq., sec'y Johnson Rotary Lock Co., No. 26 Vesey street, New York, N. Y.

SIR: There are required for the new post-office building in New York two thousand seven hundred and thirty (2,730) No. 1 lock-box fronts, which I will thank you to furnish and ship to this office for inspection, together with a receipted voucher in duplicate therefor.

Very respectfully, WM. A. POTTER,
Supervising Architect.

TREASURY DEPARTMENT,
OFFICE OF THE SUPERVISING ARCHITECT, *June* 2, 1875.

J. L. Chambers, Esq., secretary Johnson Rotary Lock Co., No. 26 Vesey street, New York city.

SIR: In reply to that portion of your letter of the 28th ult., with regard to the pigeon holes, fixtures, and number plates of the No. 1 box fronts for the New York post office, I have to say that the fixtures for connecting the fronts to the pigeon holes will be furnished by you for pigeon holes 10 inches in depth, the superintendent having been instructed to obtain proposals for furnishing the pigeon holes required.

420 The number of plates for the boxes will be as follows:

From No. 1 to No. 1110, inclusive, and from 4283 to No. 5902, inclusive, and you are hereby instructed to furnish them, together with the box fronts.

Respectfully, H. G. JACOBS,
Acting Supervising Architect.

TREASURY DEPARTMENT,
OFFICE OF THE SUPERVISING ARCHITECT, *June* 3, 1875.

J. L. Chambers, Esq., secretary and treasurer Johnson Rotary Lock Co., 26 Vesey street, New York city.

SIR: Acknowledging receipt of yours of the 20th ult., giving the sizes of sections 18, 19, 20, and 21 and the metallic fronts required for same; also the sizes of panels prepared for drawers in bases of post-office screen received from the assistant superintendent of the New York post-office building, I have to say that a drawing showing these sections and fronts has been prepared, and a tracing of it is herewith sent you.

There will be required for sections 18 and 20 one hundred and twenty (120) metallic fronts similar in design to those furnished by you for the Boston post office, with all necessary fastenings and with number plates attached thereto, numbered as shown by the drawing. The sizes of these sections being 5.6¾″ long by 5.9½″ high, the fronts will have to be placed six in length and ten in height in each, which will make the fronts 11″, full, wide by 7″, scant, high, and not 10½ by 7″, as stated by you.

For section 19 there will be one hundred and forty-four (144) metallic fronts required of similar design, with all necessary fastenings and number plates as shown on drawing. This section is 16 x 2[illegible] long by 59½[illegible] high; the fronts will be placed sixteen lengthwise and nine in height, making them 12[illegible], full, wide by 7¾, scant, high—not 12[illegible] x 8[illegible], as stated by you.

421 Section 21 will require ninety (90) boxes similar in every respect to section 19, placed ten in width and nine in height, making the front 12[illegible] x 7¾[illegible], scant, all to be numbered as shown.

There will also be required five hundred and eighteen (518) metallic drawer fronts with the necessary fastenings, of standard pattern, with number plates, as shown by the drawing.

You will please give this order your immediate attention and forward the fronts to this office for inspection as soon as possible.

Respectfully,
H. G. JACOBS,
Acting Supervising Architect.

WASHINGTON, D. C., *November 27th*, 1871.

SIR: The committee designated by your order of September to examine and report upon the kind and character of letter boxes or pigeon holes with their locks or fasteners to be used in post offices in Government buildings, respectfully submit the following:

A complete list of the models, samples, and inventions presented appears in the annexed schedule, marked A, all of which have been carefully examined and their respective merits and demerits considered and compared.

The committee have deemed the following to be the qualities which should be combined in post-office lock boxes.

1st. Security, to the extent that it may be attained within reasonable cost, this quality mainly depending on the capacity of the lock to admit such number of distinct combinations that no one key will

unfasten more than one lock, and the capacity to resist picking or opening with other instruments, it being apparent that by violence any of the samples may be readily and almost instantly opened, as could also any of the call or glass boxes in common use.

2d. Durability of fixtures, that the cost of renewal or repairs may be reduced to the lowest minimum.

422 3d. Convenience in use and elegance in appearance.

4th. Economy of construction and facility for repairs.

Examined with reference to these requirements, the samples presented and fairly competing were readily reduced to the following:

1st. That of the American Seal Lock Company, being a very elegant front, nickel plated, and fastened with the A. S. Lock.

2d. The lock and front of the Sargent and Greenleaf Company.

3d. The lock, front, and case of the Yale Lock Company.

4th. The lock and front of the Johnson Rotary Lock Company.

With the exception of the American seal lock, there would be no material or controlling difference in the cost of either of the foregoing when placed in position for use, and as all of the parties have stated verbally or in writing that the pattern or style of the front would be made to suit the views of the Department, the competition is practically reduced to the locks or fastenings.

Cost of each of the foregoing placed in position complete for work:

American seal lock, with nickel-plated front	$4 50
Cost of box (estimated)	20
	$4 70
Sargent & Greenleaf lock front	2 00
Cost of box (estimated)	20
	$2 20
S. & G. drawer locks	90
Cost of drawer (estimated)	2 00
	$2 90

423 Yale Lock Company:

Drawers, boxes, and locks complete, drawers $3.50, less 15 per cent	$2 98
No. 0 box, $3.00 less, 15 per cent	2 55
No. 1 " 2.75, " " " "	2 34
No. 2 " 2.50, " " " "	2 13

All including pigeon holes complete for use.

Johnson rotary lock and front:

Brass fronts and locks, 3 by 5, 4 by 5 inches	$2 00
Cost of box (estimated)	20
	$2 20

Bronze fronts, same sizes	2 25
Cost of box (estimated)	20
	$2 45
Drawer locks	2 00
Cost of drawer (estimated)	2 00
	$4 00

Only the Yale Company propose to furnish the pigeon holes and cases complete, but the committee has added to the others the estimated cost of the boxes and drawers for the purpose of showing the probable cost of each in place.

The Yale Lock Company propose to deliver their work packed for shipment and on board near their factory, the risk and cost of transportation falling upon the Government.

The Johnson Company propose to deliver their work free of transportation at the place of destination.

The other parties make no proposal as to transportation.

Returning to the locks, the committee remark that for post office use, where the boxes are opened many times a day, it is not believed the seal of the American Company would be often resorted to, and that, as the locks present no other substantial advantages over the other samples, they are excluded by the difference in cost. It is, however, proper to remark that the agent of this lock sent in a note before the committee had concluded its labors stating that they would make the fronts of less expensive material as cheap as they could, and that the price should be satisfactory, but this was
424 regarded as too indefinite for the action of the committee, and is, therefore, left for the consideration of the Department.

Without depreciating the value or questioning the applicability of either of the other samples under discussion, the committee is of the opinion that the Johnson rotary improved lock offers equal advantages in other respects, with the additional ones of greater strength and better facility for repairs in case of derangement; and they also believe that it is, at least, as difficult, if not more difficult, to open without violence than any of the others, save the American seal lock, when sealed; and the committee therefore recommend that preference be given to the Johnson rotary improved lock.

The Yale Company claim that in some respects the lock or fixtures of the Johnson Rotary Lock Company are infringements of patents held by them. As to this, the committee cannot inquire, but suggest an adequate bond of indemnity in case of the adoption of the Johnson rotary improved lock.

The committee suggest reforming whichever front shall be adopted, so as to admit as much light as possible without diminishing the security.

The papers and samples before the committee are herewith submitted.

J. W. EDMUNDS,
R. W. GURLEY,
JAS. T. ADAMS,
Committee.

Hon. J. A. J. Cresswell, P. M. Gen'l.

A.

W. W. Robbins submits a sample of post-office boxes with wire bottoms, which may be used as common glass boxes, or as lock boxes, with wood or metallic fronts, the advantage claimed being that the wire bottoms prevent the accumulation of dust.

The following card contains list of sizes and prices:

No.		Height.	Width.	No.		Height.	Width.	No.		Height.	Width.	
Numbers furnished with boxes. 1	5 inches deep; 6 wires.	4 in.	1⅝ in.	16	5½ inches deep; 7 wires.	4 in.	1⅝ in.	31	6 inches deep; 8 wires.	4 in.	1⅝ in.	Cheapest and best—free from dust.
2		"	2 in.	17		"	2 in.	32		"	2 in.	
3		"	2⅛ in.	18		"	2⅛ in.	33		"	2⅛ in.	
4		"	2⅜ in.	19		"	2⅜ in.	34		"	2⅜ in.	
5		"	2⅝ in.	20		"	2⅝ in.	35		"	2⅝ in.	
6		4½ in.	1⅝ in.	21		4½ in.	1⅝ in.	36		4½ in.	1⅝ in.	
7		"	2 in.	22		"	2 in.	37		"	2 in.	
8		"	2⅛ in.	23		"	2⅛ in.	38		"	2⅛ in.	
9		"	2⅜ in.	24		"	2⅜ in.	39		"	2⅜ in.	
10		"	2⅝ in.	25		"	2⅝ in.	40		"	2⅝ in.	
11		4½ in.	1⅝ in.	26		4½ in.	1⅝ in.	41		4½ in.	1⅝ in.	
12		"	2 in.	27		"	2 in.	42		"	2 in.	
13		"	2⅛ in.	28		"	2⅛ in.	43		"	2⅛ in.	
14		"	2⅜ in.	29		"	2⅜ in.	44		"	2⅜ in.	
15		"	2⅝ in.	30		"	2⅝ in.	45		"	2⅝ in.	
White wood, tinned wire, per box, 10 cents.				White wood, tinned wire, per box, 11 cents.				White wood, tinned wire, per box, 12 cents.				
Cherry, brass wire, per box, 12 cents.				Cherry, brass wire, per box, 13 cents,				Cherry, brass wire, per box, 14 cents.				

THOMAS L. JAMES. 251

426 Mr. Robbins also submits a lock drawer, to be made with metallic or wood front, so arranged as to protect adjoining boxes or drawers when opened. He uses the Sargent lock.

The following card contains the sizes and prices of cases:

W. W. Robbins, Milford, N. H.

Metallic lock-box fronts furnished if desired.

See price list on the other side.

I also make cabinets for small offices of the following styles:

No. 1 is 21-2 ft. wide, 4 ft. high, contains 48 call boxes, wheel, 2 drawers, 8 mailing and paper boxes. Price, black walnut and cherry, $30; pine and white wood, $25.

No. 2 is 4 ft. wide, 4 ft. high, contains 100 call boxes, wheel, 2 drawers, 5 mailing boxes, 9 paper boxes, letter box and delivery. Price, black walnut and cherry, $40; pine and white wood, $30.

No. 3 is 4 ft. high, 6 ft. wide, contains 200 call boxes, wheel, 4 drawers, 5 mailing boxes, 9 paper boxes, letter box and delivery. Price, black walnut and cherry, $60; pine and white wood, $45.

Please look at these cabinets if you want a nice thing, that will sit on your counter and lock up, for a little money.

The boxes will rent for enough to pay in a short time.

G. R. Leidy submits a sample containing six lock boxes, with metallic fronts, and five drawers with wood fronts, but which may be made with either wood or metallic fronts.

The lock proposed with case is called the eccentric lock, and is like the sample submitted under glass, in which the work can be seen.

427 *Prices.*

Brass frame, front and lock bronzed, with one key	$1 90
Cast-iron front, lock and one key	1 75
Brass bronzed, " " three keys	2 25
Iron fronts, " " three keys	2 00

C. Staples & Son submit samples of three lock boxes, metallic fronts, fastened with the Sargent lock.

A. E. Tilton submits a metallic front, and proposes to vary the style or size to meet the views of the Department. This front is to be fastened with the American seal lock.

Price.

For front and lock, for each box	$4 50

Subsequently received from Mr. Tilton a communication saying they would make the fronts of cheaper material and make the price satisfactory.

Sargent & Greenleaf submit two samples of metallic fronts, and state that "these samples represent only the fronts of the boxes, which

will be made any desired depth, and, if preferred, they will put metallic gratings in front of the glass, of any design required.

These fronts are also fastened with the Sargent & Greenleaf lock.

Prices.

Fronts and locks, three keys each	$2 00
Key drawer locks, as per sample, at per dozen	10 80

James E. Bell submits two samples of box fronts, one metal, one wood, but both to be made of metal in case of their adoption.

These fronts are hinged at the bottom, and upon being opened the door or front drops down instead of swinging to one side, as in all the other samples.

428 These samples were submitted with the statement that any suitable lock could be used upon them. No price stated.

J. P. Welch submits combination lock to be used without keys—metallic fronts.

Johnson Rotary Lock Company submits sample case six metallic lock boxes and two drawers with wood fronts, but which may be made of metal if desired, all to be fastened with the Johnson rotary lock, as per sample, size of front to be 3 x 5 or 4 x 5 inches, at the option of the Department.

Prices.

Brass fronts and locks, each	$2 00
Bronze " " " "	2 25
Brass number plates, engraved, each	20
Composition drawer locks, each	2 00

Prices include boxes, packing, and delivery at place of destination.

Yale Lock Company submit a full working-size case, containing three sizes of lock boxes, and a sample of lock drawers for large mails, all fastened with the Yale lock, as per sample.

The prices named below include the wood-work as seen in the sample (except the black walnut case, mouldings, and cornice), and also boxes and packing for shipment.

Prices.

Lock drawers, completed, each	$3 50
No. 0 lock box, " "	3 00
" 1 " " " "	2 75
" 2 " " " "	2 50

429 (Endorsed.)

POST OFFICE DEPARTMENT, *Dec.* 18, 1871.

After a careful examination of this report and of the various samples of locks presented by the parties interested, I am of the opinion that the preference should be given to the front and lock of the Johnson Rotary Lock Company in post offices to be fitted up at

the expense of the Government, upon condition, however, that the charges for said locks and fronts, when in place, shall not in any case exceed the prices charged for the same sizes of the Yale Lock Company, and to that end the within report of the committee is hereby approved.

JNO. A. J. CRESWELL,
Postmaster General.

DEFENDANT'S EXHIBIT BURT-CHAMBERS LETTER. J. A. S., Examiner. Nov. 14, 1882.

YALE LOCK COMPANY *vs.* T. L. JAMES.

William L. Burt, postmaster.

POST OFFICE, BOSTON, MASS., *July* 31, 1868.

J. L. Chambers, secretary Johnson Rotary.

SIR: I am in receipt of lock frame, by kindness of Mr. Knapp, of the New York office; also two letters, July 29 and 30.

By having this frame I can fit it to all my drawers, cutting
430 out for the locks according to this pattern, so that when the locks come all we shall have to do will be to screw them on. It will be about a week's work to fit the 500. We shall then be ready to put them on, and it will occupy but a short time for the whole lot.

I shall be at the office Tuesday morning and very glad to see you. If you can fit a lock to the form of the frame and door we are using it would be brought into immediate use almost everywhere. As you have the approval of the Treasury and Post-Office Departments upon your locks I think you had better take my own improvements upon the door and frame and put the whole into a post-office patent self-delivering door and lock. Such an arrangement would, no doubt, give me a large profit and you a reasonable one. Please put the holes for securing the lock frame in the upper face as well as the inner face—two of them.

I am, yours respectfully, WM. L. BURT,
Postmaster.

DEFENDANT'S EXHIBIT MULLET-CHAMBERS LETTER. J. A. S., Examiner. Nov. 14, 1882.

YALE LOCK COMPANY *vs.* T. L. JAMES.

TREASURY DEPARTMENT, OFFICE OF SUPERVISING ARCHITECT, *October* 28, 1869.

MY DEAR CHAMBERS: Yours of the 26th inst. is received. The package arrived safely. The requests contained in your previous letter were also noticed and would have been complied with
431 had it been within my power to do so, but you will perceive, upon consideration, that I cannot do any more than to advise you formally that your lock has been selected by the Postmaster General and enclose a list of the post offices under my control. I

believe, however, that you can do more with the postmasters that are in rented buildings than in public buildings. It is, of course, unnecessary for me to give you a list of these, as you are aware that there is a post office in every place of sufficient importance to warrant the use of the Johnson rotary post-office lock.

Truly yours, A. B. MULLETT.

J. L. Chambers, Esq., 18 John street, New York.

DEFENDANT'S EXHIBIT TOWN LETTER. November 14, 1882. J. A. S., Examiner.

YALE LOCK COMPANY *vs.* T. L. JAMES.

Works at Stamford, Connecticut; office and salesroom, No. 1 Barclay street, New York.

Henry R. Towne, president; —— ——, treasurer.

Yale Lock Manufacturing Company, exclusive manufacturers under the patents of the late Linus Yale, Jr.

STAMFORD, *July* 5, 1870.

(Private.)

W. L. Burt, Esq., P. M. Boston, Mass.

DEAR SIR: Since writing to you a few days since we have received a letter from our agent in Vermont, in which he says:

432 "Our boxes have been removed from this office and Johnston's introduced. They put in 1,002 of them. Ours were sold to Millbury. I called to see the postmaster, but he was absent. His assistant told me that our box was liked better by the people, but Mr. Mullett would have none but these. They also have the Johnston box in Ogdensburg."

From the above you see that these matters demand immediate attention, and I am very anxious to meet you at an early day. If you are coming this way soon please arrange for a meeting either here or in N. Y. If not I will meet you in Boston at whatever time you name—preferably Saturday or Monday.

The letter quoted above was written from Burlington, Vt. Your direct loss by the transaction is $100.20, while, as an entering wedge for a competing article, the affair is of still more consequence.

Hoping for an early reply, I am,

Yours truly, HENRY R. TOWNE, *President.*

433 *Stipulation.*

DEFENDANT'S EXHIBIT STREET-WASHER BOX STIPULATION. Nov. 22, 1882. J. A. S., Ex'r.

Circuit Court of the United State for the Southern District of New York.

YALE LOCK MANUFACTURING COMPANY *vs.* THOMAS L. JAMES.

It is hereby stipulated and agreed by and between the parties to this suit that for several years prior to 1868 there were publicly and

commonly known and used in the United States the parts, constructions, and combinations embodied in the several articles and things described below:

First. Street-washer boxes, each having wood sides, put together so as to form a rectangular box open at the ends and a metal cover and metal cover frame, the cover being hinged to the frame; the frame entering into the box a short distance at one end and fitting the same and being attached there in some way to the wood and having a rim or flange projecting on all sides and covering the end of the wood sides; the exterior edges of the rim or flange forming a rectangle, the surface of the cover and frame of the box when in position being flush with the sidewalk. The cover and frame are represented in the drawing hereto annexed, marked Fig. 1.

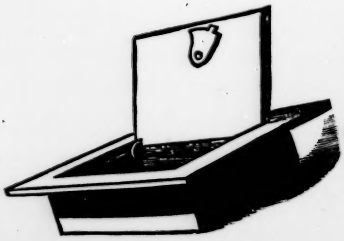
434 Second. Stop-cock boxes, each having wood sides, put together so as to form a rectangular box open at the ends and a metal cover and metal cover frame, the cover being hinged to the frame; the frame entering into the box a short distance at one end and fitting the same and having a rim or flange projecting on all sides and covering the end of the wood sides, and being attached to the wood of two of the opposite sides by rivets or bolts passing into the outside of the wood through lugs, one of which is shown in the drawing of the cover and frame hereto annexed, marked Fig. 2; the exterior edges of the rim or flange forming a rectangle, and the surface of the cover and frame of the box when in position being flush with the sidewalk.

Third. Iron safes for valuables, having in them pigeon holes, the body of which was sheet iron with a lining or interior casing of wood and having an iron door and an iron door frame which covered the end of the sheet iron and wood forming the pigeon hole, the frame being in some way fastened to the iron of the pigeon hole and not to the wood lining, and its exterior edges forming a rectangle.

Oct. 9, 1882.

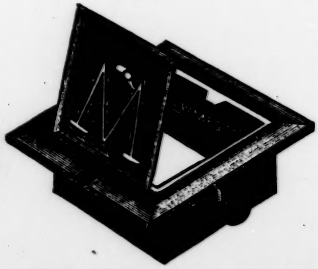
BETTS, ATTERBURY & BETTS,
Per H. S. H. JR.
S. L. WOODFORD, *U. S. Att'y, for Def't.*

Fig. 1.



Street-washer boxes, with hinged cover.

Fig. 2.



Stop-cock box cover, with latch.

435 Circuit Court of the United States for the Southern District of New York.

YALE LOCK MANUFACTURING COMPANY *vs.* THOMAS L. JAMES.

This stipulation amends Defendant's Exhibit Street-Washer Box stipulation herein as follows, namely: By changing the date 1868 in the first paragraph of said exhibit to the date 1863, with reference to everything in said exhibit contained, except the subject-matter of the paragraph thereof marked "third," which begins with the words "iron safes for valuables;" as to such date, the date is to be considered 1868, as now."

New York, June 6, 1883.

BETTS, ATTERBURY & BETTS,
Compl't's Sol'rs.

ELIHU ROOT,
S. B. C., U. S. Att'y, Sol'r for Def't.

436 DEFENDANT'S EXHIBIT YALE-BURT LETTER. J. G., Jr., Ex'r. M'ch 1, 1883.

83 BEEKMAN ST., NEW YORK, *March* 17, '68.

Mr. W. L. Burt, P. M. Boston, Mass.

DEAR SIR: Yours of 13th inst. has been forwarded to me, and I would reply: I presume the sup't will send you another door made by hand, though they cost at least three prices, and we will avoid it if possible. We have done a great deal of experimenting on this thing already, as you must be aware, and that brings me to the subject of your second paragraph. I do not anticipate trouble about the Bramble pat., and only wish to say I claim only the manner of fastening in the frame to the wood-work, which I have no doubt you will allow is mine. I had already consulted my patent solicitor, H. B. Renwick, of this city, as to the feasibility of patenting the manner of fastening in simply, and am informed it can undoubtedly be patented. The matter of a metal door with glass, and locked, I, of course, have no claim to. You sent me such a door to put locks on, so you are ahead of me at least on that point. I do not write this to interfere at all with your application, but must insist on my claim to the manner of fastening to the shelves and partitions. Hoping nothing of the above may be misconstrued, I am, very respectfully,

LINUS YALE, JR.,

(Yale Lock Co. *v.* James. Defendant's Exhibit Yale's Signature for Identification, Feb. 23, '83, J. G., Ex'r.)

437 DEFENDANT'S EXHIBIT ORIGINAL PATENT. J. A. S., Ex'r.

THE YALE LOCK MANUFACTURING COMPANY
vs.
THOMAS L. JAMES.

DEPARTMENT OF THE INTERIOR,
UNITED STATES PATENT OFFICE.

To all persons to whom these presents shall come, Greeting:

This is to certify that the annexed is a true copy from the records of this office of the letters patent granted Silas N. Brooks, as administrator, September 19, 1871, No. 119,212, for improvement in post-office letter boxes.

In testimony whereof I, E. M. Marble, Commissioner of Patents, have caused the seal of the Patent Office to be hereunto affixed this twenty-first day of March, in the year of our Lord one thousand eight hundred and eighty-one, and of the Independence of the United States the one hundred and fifth.

[SEAL] E. M. MARBLE,
Commissioner.

438 No. 119,212.

The United States of America to all to whom these presents shall come:

Whereas Silas N. Brooks, of Shelburne Falls, Massachusetts, administrator of Linus Yale, Jr., deceased, has presented to the Commissioner of Patents a petition praying for the grant of letters patent for an alleged new and useful improvement in post-office letter boxes, a description of which invention is contained in the specification of which a copy is hereunto annexed and made a part hereof, and has complied with the various requirements of law in such cases made and provided; and

Whereas upon due examination made the said claimant is adjudged to be justly entitled to a patent under the law:

Now, therefore, these letters patent are to grant unto the said Silas N. Brooks, as administrator, his successors or assigns, for the term of seventeen years from the nineteenth day of September, one thousand eight hundred and seventy-one, the exclusive right to make, use, and vend the said invention throughout the United States and the Territories thereof.

In testimony whereof I have hereunto set my hand and caused the seal of the Patent Office to be affixed, at the city of Washington, this nineteenth day of September, in the year of our Lord one thousand eight hundred and seventy-one, and of the Independence of the United States of America the ninety-sixth.

[SEAL.] B. R. COWEN,
Acting Secretary of the Interior.

Countersigned:
M. D. LEGGETT,
Commissioner of Patents.

(Here follows diagram marked p. 439.)

SILAS N. BROOKS.

Improvement in Post-office Letter Boxes.

No. 119,212. Patented Sep. 19, 1871.

[94.]

Fig. 1.

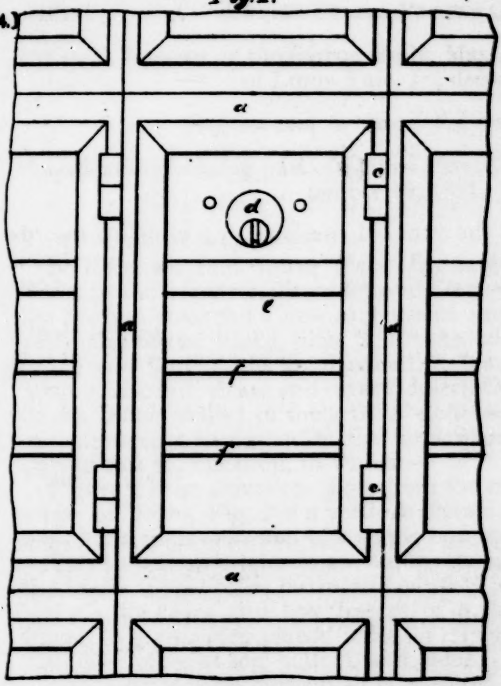


Fig. 2.

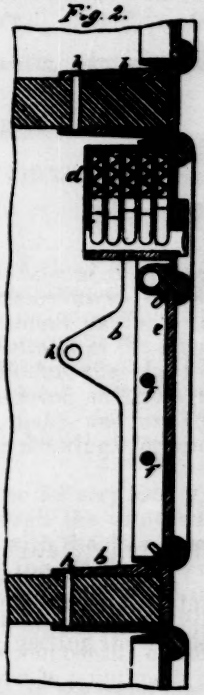
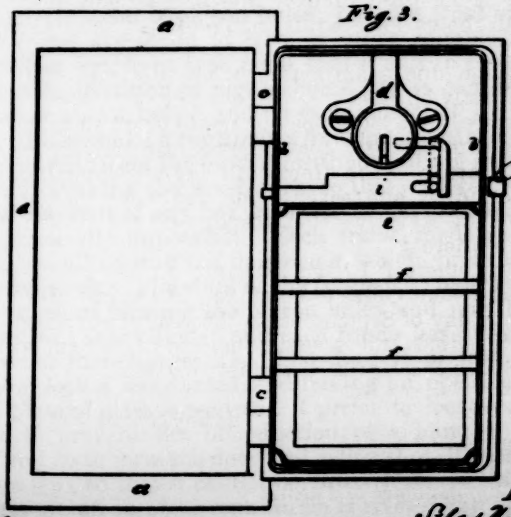


Fig. 3.



No 162 Yale Lock Mfg Co p. 439 Jones

Witnesses.
A. C. Bradley
M. H. Linaker

Inventor.
Silas N. Brooks
administrator of Estate of
Lyman Yale Ford
by Geo. O. Robinson Att'y

SILAS
No.

[94]

440 UNITED STATES PATENT OFFICE.

SILAS N. BROOKS, of Shelburne Falls, Massachusetts, administrator of Linus Yale, Jr., deceased.

Improvement in Post-Office Letter Boxes.

Specification forming part of Letters Patent No. 119,212, dated September 19, 1871.

To all whom it may concern:

Be it known that Linus Yale, Jr., deceased, late of Shelburne Falls, in the county of Franklin and State of Massachusetts, during his lifetime invented a new and useful improvement in doors for post-office boxes; and I, Silas N. Brooks, administrator of the estate of the said Linus Yale, Jr., deceased, do hereby declare that the following is a full, clear, and exact description thereof, sufficient to enable others skilled in the arts to understand, make, and use the same, reference being had to the accompanying drawings forming part of this specification, in which—

Figure 1 is an elevation taken from the front or delivery side of a series of boxes, Fig. 2 is a vertical section through the same, and Fig. 3 is a front elevation of a single box frame with the door open.

This invention relates to an improvement in the construction of the fronts of post-office boxes, and consists in making said fronts, including the doors and box frames, of metal and in securing the frames to the wooden pigeon holes by rivets connecting the frames with each other at top, bottom, and sides.

The body of these boxes is to be made of wood, in the usual manner, namely, a series of pigeon holes; but the front of the box and the door frame are made of iron or other suitable metal. Each door frame or box front is so made that it aids in covering the edge of the wooden partition or pigeon holes, and is connected with the other frames above, below, and on each side of it in such manner that the frames make a continuous frontage, no part of which can be removed (from the outside) without pulling down other parts
441 and breaking the wood-work, so that a surreptitious removal of the front of any box in order to get possession of its contents is practically impossible. Each frame, made as before stated of metal, has all around it a flange, *a a*, which protects the outside of the wood-work. The sides of the frame *b b* enter and fit closely against the wood forming the pigeon holes, and may be continuous or notched out at intervals; and each frame has attached to it one leaf of two or more hinges, *c c*. The door is of iron, solid at top, where the lock *d* is attached, and having an opening, *e*, below, in which a plate of glass is secured. I prefer to locate rods *f f* behind the plate, to prevent the introduction of a hand if the glass be broken, and so to form the door that, when shut, it enters within the frame (see *g g*), so that it cannot be lifted from its hinges. When the frames are all in place each frame is riveted through the wood-work to its four neighbors (see *h h*, Fig. 2), and thus a continuous

iron frontage is formed. Each door has a small spring bolt, *i*, and a lock, *d*, attached to it, the two operating together and forming, in the hands of the postmaster, a perfect safeguard against all entrance to the box by means of the key, as is more particularly set forth in my application for a patent therefor, made equal date with this.

What I claim as the invention of the said Linus Yale, Jr., deceased, is:

1. The combination of several box frames with each other and with pigeon holes, as described, by means of rivets passing through the frames, and the wood-work entering between the said frames, the combination being substantially as described.

2. The above, in combination with the flanges making part of the frames and protecting and inclosing the exterior of the wood-work, substantially as set forth.

SILAS N. BROOKS,
Administrator of the Estate of Linus Yale, Jr., Deceased.

Witnesses:
G. M. PLYMPTON.
H. L. WATTENBERG.

442 DEFENDANT'S EXHIBIT 1872 REISSUE. J. A. S., Ex'r.

THE YALE LOCK MANUFACTURING COMPANY
vs.
THOMAS L. JAMES.

DEPARTMENT OF THE INTERIOR,
UNITED STATES PATENT OFFICE.

To all persons to whom these presents shall come, Greeting:

This is to certify that the annexed is a true copy from the records of this office of the reissue letters patent granted Silas N. Brooks, as administrator, July 9, 1872, No. 4963, for improvement in post-office letter boxes.

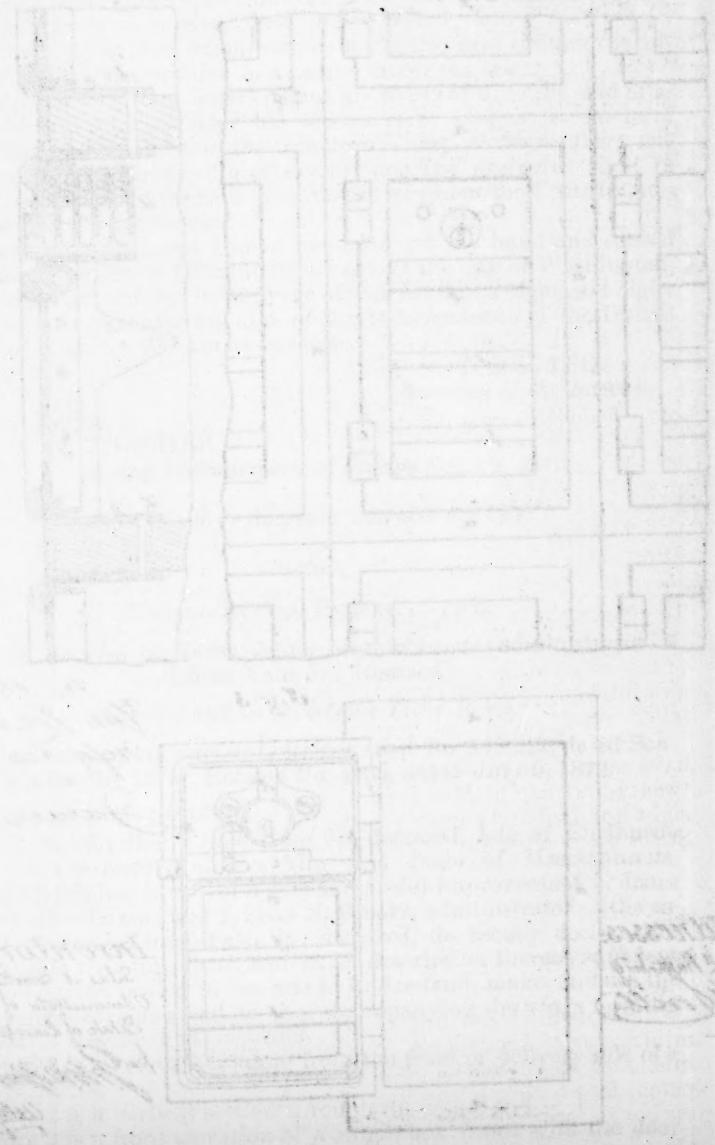
In testimony whereof I, E. M. Marble, Commissioner of Patents, have caused the seal of the Patent Office to be hereunto affixed this twenty-first day of March, in the year of our Lord one thousand eight hundred and eighty-one, and of the Independence of the United States the one hundred and fifth.

[SEAL.] E. M. MARBLE,
Commissioner.

443 Reissue No. 4963.

The United States of America to all to whom these presents shall come:

Whereas Silas N. Brooks, of Bernardston, Massachusetts, administrator of Linus Yale, Jr., deceased, has presented to the Commissioner of Patents a petition praying for the reissue of letters patent for an alleged new and useful improvement in post-office letter boxes (for which letters patent were issued to him, dated September 19, 1871, which letters having been surrendered, the same have



L. YALE, Jr.

Improvement in Post-Office Letter-Boxes.

No. 4,963 Reissued July 9, 1872

Fig. 1.

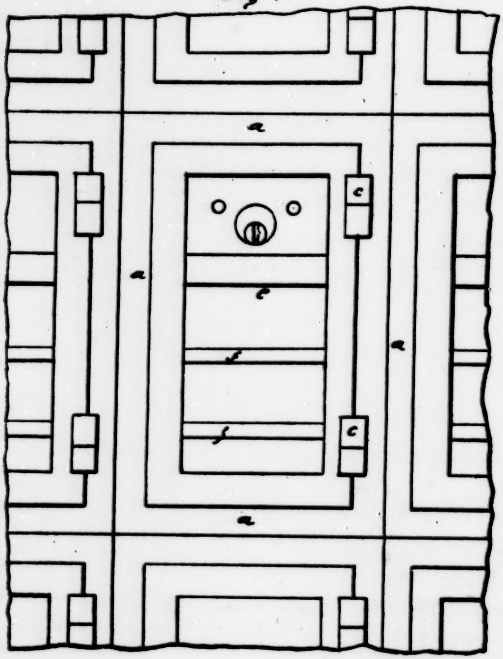


Fig. 2.

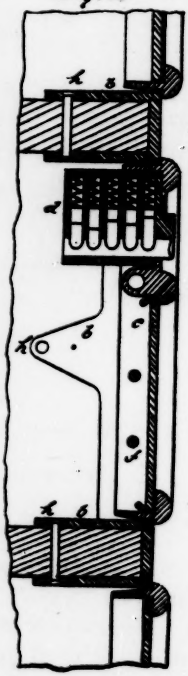
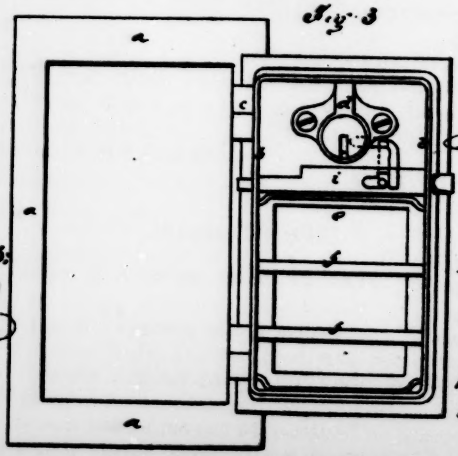


Fig. 3



No. 162 Yale Locks Mfg. Co's James p444

Witnesses:
W. P. Mattaburg
W. Lovell

Inventor:
Silas A. Brooks.
Administrator of the Estate of Linus Yale Jr.
per [illegible]
Atty

been cancelled and new letters ordered to issue to him on an amended specification), a description of which invention is contained in the specification, of which a copy is hereunto annexed and made a part hereof, and has complied with the various requirements of law in such cases made and provided; and

Whereas, upon due examination made, the said claimant is adjudged to be justly entitled to a patent under the law:

Now, therefore, these letters patent are to grant unto the said Silas N. Brooks, as administrator, his successors or assigns, for the term of seventeen years from the nineteenth day of September, one thousand eight hundred and seventy-one, the exclusive right to make, use, and vend the said invention throughout the United States and the Territories thereof.

In testimony whereof I have hereunto set my hand and caused the seal of the Patent Office to be affixed, at the city of Washington, this ninth day of July, in the year of our Lord one thousand eight hundred and seventy-two, and of the Independence of the United States of America the ninety-seventh.

[SEAL.]

C. DELANO,
Secretary of the Interior.

Countersigned:
J. M. THACHER,
Acting Commissioner of Patents.

(Here follows diagram marked p. 444.)

445

4963.

UNITED STATES PATENT OFFICE.

SILAS N. BROOKS, of Bernardston, Massachusetts, administrator of Linus Yale, Jr., deceased.

Improvement in Post-Office Letter Boxes.

Specification forming part of Letters Patent No. 119,212, dated September 19, 1871; Reissue No. 4963, dated July 9, 1872.

To all whom it may concern:

Be it known that Linus Yale, Jr., deceased, late of Shelburne Falls, in the county of Franklin and State of Massachusetts, during his lifetime invented a new and useful improvement in doors for post-office boxes; and I, Silas N. Brooks, administrator of the estate of the said Linus Yale, Jr., deceased, do hereby declare the following to be a full, clear, and exact description thereof, sufficient to enable others skilled in the arts to understand, make, and use the same, reference being had to the accompanying drawings forming part of this specification, in which

Figure 1 is an elevation taken from the front or delivery side of a series of boxes,

Figure 2 is a vertical section through the same, and

Figure 3 is a front elevation of a single box frame with the door open.

This invention relates to an improvement in the fronts of post-office boxes, and consists in making said fronts, including the doors and box frames, of metal, said box frames being constructed so as to overlap and cover, in whole or in part, the front edges of the wooden pigeon holes to which they are affixed.

The body of the boxes is to be made of wood in the usual manner, viz., a series of pigeon holes, but the front of the box and the door frame are made of iron or other suitable metal.

Each door frame or box front is so made that it aids in covering the edge of the wooden partition or pigeon holes, and is connected with the other frames above, below, and on each side of it in such manner that the frames will make a continuous frontage, no
446 part of which can be removed from the outside without pulling down other parts. Each frame made, as before stated of metal, has all around it a flange, *a a*, which protects the outside or edges of the wood-work.

The sides of the frame *b b* enter and fit closely against the wood forming the pigeon holes, and may be continuous or notched out at intervals, and each frame has attached to it one leaf of two or more hinges *c c*. (The door may be of any desirable metal, solid where the lock *d* is attached, and having an opening, *e*, below, in which a plate of glass is secured.) I prefer to locate rods *f f* behind the plate to prevent the introduction of a hand if the glass be broken. The door is so constructed that when shut it enters within the frame, so that it cannot be lifted from its hinges.

When the frames are all in place each frame is riveted through the wood-work to its four neighbors (see *h h*, Fig. 2), and in this way forms a continuous metal frontage.

The door for each frame has a small spring bolt, *i*, and a lock, *d*, attached to it, the two operating together and forming, in the hands of the postmaster, a perfect safeguard against all entrance to the box by means of the key, as is more particularly set forth in letters patent granted to me on the 24th day of October, 1871, and numbered 120,177.

What I claim as the invention of the said Linus Yale, Jr., deceased is:

1. The combination of several box frames with each other and with pigeon holes, as described, by means of rivets passing through the frames and the wood-work, entering between the said frames, the combination being substantially as described.

2. The combination of two or more metallic frames and doors and locks with pigeon holes, said frames having flanges, which protect and inclose wholly or in part the front edges of said pigeon holes.

SILAS N. BROOKS,
Administrator of the Estate of Linus Yale, Jr.

Witnesses:
H. L. WATTENBERG.
G. M. PLYMPTON.

447 DEFENDANT'S EXHIBIT 1872 FILE WRAPPER. J. A. S., Ex'r.

THE YALE LOCK MANUFACTURING COMPANY

vs.

THOMAS L. JAMES.

DEPARTMENT OF THE INTERIOR,
UNITED STATES PATENT OFFICE.

To all persons to whom these presents shall come, Greeting:

This is to certify that the annexed is a true copy from the files of this office of the file wrapper and contents in the matter of the reissue letters patent granted Silas N. Brooks, administrator of Linus Yale, Jr., deceased, July 9, 1872, No. 4963, for improvement in post-office letter boxes.

In testimony whereof I, E. M. Marble, Commissioner of Patents, have caused the seal of the Patent Office to be hereunto affixed, this twenty-first day of March, in the year of our Lord one thousand eight hundred and eighty-one, and of the Independence of the United States the one hundred and fifth.

[SEAL.)

E. M. MARBLE,
Commissioner.

Petition for Reissue.

To the Commissioner of Patents:

The petition of Silas N. Brooks, administrator of the estate of Linus Yale, Jr., deceased, of Bernardston, in the county of Franklin and State of Massachusetts, respectfully represents—

That he, as administrator of the estate of Linus Yale, Jr., deceased, did obtain letters patent of the United States of America for a new and useful improvement in doors for post-office boxes, which letters patent are dated on the 19th day of September, 1871, and whereof he, as such administrator, is now sole owner; that he now believes that the same is inoperative and invalid by reason of a defective or insufficient specification, which defect has arisen from inadvertence and mistake.

448

He therefore prays that he may be allowed to surrender the same and request that new letters patent may issue to him for the same invention for the residue of the period for which the original patent was granted under the amended specification herewith presented, he having paid thirty dollars into the Treasury of the United States, agreeably to the requirements of the acts of Congress in that case made and provided; and he hereby authorizes G. M. Plympton, of New York city, or his accredited agent or agents, to act as his attorneys in presenting the application, and in making all such alterations and amendments as may be required.

Accompanying this petition is an abstract of title, duly certified, as required in such cases.

[50. H. L. W., J. M. 50.]

SILAS N. BROOKS,
Administrator of the Estate of Linus Yale, Jr.

To all whom it may concern:

Be it known that Linus Yale, Jr., deceased, late of Shelburne Falls, in the county of Franklin, and State of Massachusetts, during his lifetime invented a new and useful improvement in doors for post-office boxes, and I, Silas N. Brooks, administrator of the estate of the said Linus Yale, Jr., deceased, do hereby declare the following to be a full, clear, and exact description thereof, sufficient to enable others skilled in the arts to understand, make, and use the same, reference being had to the accompanying drawings forming part of this specification, in which

Fig. 1 is an elevation taken from the front or delivery side of a series of boxes.

Fig. 2 is a vertical section through the same, and

Fig. 3 is a front elevation of a single box frame, with the door open.

449 This invention relates to an improvement in the fronts of post-office boxes, and consists in making said fronts, including the doors and box frames, of metal, said box frames being constructed so as to overlap and cover, in whole or in part, the front edges of the wooden pigeon holes to which they are affixed [and in securing said frames to said pigeon holes by rivets or screws].

Erased May 10, '72. New.

The body of the boxes is to be made of wood in the usual manner, viz., a series of pigeon holes, but the front of the box and the door frame are made of iron or other suitable metal.

Each door frame or box front is so made that it aids in covering the edge of the wooden partition or pigeon holes and [may be] connected with the other frames above, below, and on each side of it in such manner that the frames will make a continuous frontage, no part of which can be removed from the outside without pulling down other parts [or the several frames may be secured or otherwise fastened directly to the wooden pigeon holes, each one independent of the other if desired].

May 10, '72.

Erased May 10, '72. New.

Each frame made, as before stated, of metal, has all around it a flange, *a a*, which protects the outside or edges of the wood-work. The sides of the frames *b b* enter and fit closely against the wood forming the pigeon holes, and may be continuous or notched out at intervals, and each frame has attached to it one leaf of two or more hinges, *c c*. The door may be of any desirable metal, solid where the lock *d* is attached, and having an opening, *e*, below, in which a plate of glass is secured. [Cast with the door and over the opening *e* for glass may be a net-work or ornamental open work, admitting light, and at the same time preventing the introduction of a hand if the glass be broken, or roads *f f* may

Subst. A, May 10, 1872. New.

NOTE.—Matter enclosed in brackets stricken out in original.

be located behind the plate for the same purpose.] The door is so constructed that when shut it enters within
G. M. P. the frame [see *g g*], so that it cannot be lifted from its hinges.

When the frames are all in place each
May 10, 1872. frame [may be] is riveted through the wood work to its four neighbors (see *h h*, Fig. 2), and in this way form a continuous metal frontage [or each separate
Erased May 10, 1872. frame may be screwed or otherwise fastened
R. G. D. to the wood-work independent of its neighboring frames].

450 The door for each frame has a small spring bolt, *i*, and a lock, *d*, attached to it, the two operating together and forming in the hands of the postmaster a perfect safeguard against all entrance to the box by means of the key, as is more particularly set forth in letters patent granted to me on the 24th day of October, 1871, and numbered 120,177.

What I claim as the invention of the said Linus Yale, Jr., deceased, is—

First. The combination of several box frames with each other and with pigeon holes, as described by means of rivets passing through the frames and the wood-work entering between the said frames, the combination being substantially as described.

Second. The combination of two or more metallic frames and doors and locks with pigeon holes, said frames having flanges which protect and enclose, wholly or in part, the front edges of said pigeon holes.

[Third. The combination of several metal-
Erased May 10, 1872. lic box frames with each other and with
R. G. D. New matter. pigeon holes, said box frames being secured to said pigeon holes independently of each other by means of screws or other similar fastening, as described.]

SILAS N. BROOKS,
Administrator of the Estate of Linus Yale, Jr.

Witnesses:
H. L. WATTENBERG.
G. M. PLYMPTON.

Oath.

STATE OF NEW YORK, }
County of New York, } *ss:*

On this tenth day of April, A. D. 1872, before me, a notary public in and for said county, personally appeared the above-named Silas N. Brooks, who, being duly sworn, deposes and says that he verily believes that by reason of an insufficient or defective specifi-
451 cation the aforesaid letters patent granted to him, as the administrator of the estate of Linus Yale, Jr., deceased, are

NOTE.—Matter enclosed in brackets stricken out in original.

inoperative or invalid; that the said error has arisen from inadvertence, accident, or mistake and without any fraudulent or deceptive intention, to the best of his knowledge and belief; that he, as such administrator, is the sole owner of said letters patent, and that he verily believes the said Linus Yale, Jr., deceased, to have been the first and original inventor of the improvement set forth and claimed in this amended specification.

[L. S.] RICH'D L. H. FINCH,
Notary Public, N. Y. County.

(Endorsed:) Specification. Silas N. Brooks, administrator, &c. Filed May 7, 1872. Petition and oath. R. G. D. Reissue. Improvement in doors for post-office boxes. G. M. Plympton, solicitor of patents, 245 Broadway, New York.

UNITED STATES PATENT OFFICE.

To all persons to whom these presents shall come, Greeting:

This is to certify that careful search has been made of the digest of this office, and no assignment, agreement, license, power of attorney, or other instrument of writing is found in the record under or relating to letters patent granted to Silas N. Brooks, administrator of Linus Yale, Jr., deceased, No. 119,212, dated September 19, 1871, for "post-office letter box."

In testimony whereof I, M. D. Leggett, Commissioner of Patents, have caused the seal of the Patent Office to be hereunto affixed this third day of April, in the year of our Lord one thousand eight hundred and seventy-two, and of the Independence of the United States the ninety-sixth.

[L. S.] M. D. LEGGETT,
Commissioner.

(Endorsed:) Patent Office, May 7, 1872. U. S. A.

452 U. S. PATENT OFFICE,
WASHINGTON, D. C., *May* 8, 1872.

Silas N. Brooks, adm'r, &c., care of G. M. Plympton, New York city:

Please find below a communication from the examiner in relation to your application for the reissue of your patent for post-office letter box, dated September 19th, 1871.

Very respectfully, M. D. LEGGETT,
Commissioner.

EXAMINER'S ROOM No. 1.

The amended specification presented in this case is found to contain several new suggestions not warranted by the original patent. Among these may be noted the words "or screws," in 3d line of 2d page "may be" (10th line of same page and middle of 3d page); the sentences at line 17–19 of page 2; lines 4–8, on page 3; lines 18–20 of page 3, and the third claim, on page 5.

WM. B. TAYLOR, *Examine.*

(Endorsed:) To S. N. Brooks, May 8, 1872.

WASHINGTON, D. C., *May* 9, 1872.

Hon. M. D. Leggett, Comm'r of Patents:

SIR: In the matter of the application of S. N. Brooks, administrator of estate of Linus Yale, Jr., for reissue of letters patent for improvement in post-office letter boxes, dated September 19, 1871, I hereby appeal to the Commissioner of Patents in person from the decision of the principal examiner, under rule 44, the reason of appeal being the refusal of the examiner to examine the case
453 on its merits, on the ground of the introduction of new matter not contemplated in the original patent.

Very respectfully, your obedient servant,

G. M. PLYMPTON,
Attorney for Brooks.

(Endorsed:) Appeal to Commissioner. Filed May 9, 1872. Patent Office, May 9, 1872. U. S. A.

WASHINGTON, D. C., *May* 10, 1872.

Hon. Commissioner of Patents.

SIR: The application of S. N. Brooks, administrator of estate of Linus Yale, Jr., for reissue of letters patent for improvement in post-office letter boxes, dated September 19, 1871, is hereby amended by erasing from "and," in line 1 of page 2, to "screws," in line 3, same page.

Also by erasing the words "may be," in the 10th and 11th lines of page 2, and substituting "is."

Also by erasing from "or," in line 16, 2d page, to the end of line 19, same page.

G. M. P. Also by erasing [from erasing] from the beginning of line 4, 3d page, to "purpose," in the 10th line, same page, and subsituting in-
A, insert on page 3. stead thereof the following, viz: ["I prefer to locate rods *f f* behind the plate to prevent the introduction of a hand if the glass be broken."]

Also by erasing "may be," in the 15th line, 3d page, and inserting instead the word "is."

Also by erasing from "or," in the 18th line, 3d page, to the end of line 20th, same page.

Also by erasing the 3d claim.

The case is respectfully submitted for further action.

Your obedient servant,

G. M. PLYMPTON, *Attorney.*

(Endorsed:) Amendment filed May 10, 1872. R. G. D. Patent Office, May 10, 1872. U. S. A.

NOTE.—Matter enclosed in brackets stricken out in original.

454

U. S. PATENT OFFICE,
WASHINGTON, D. C., *May* 17, 1872.

Silas N. Brooks, administrator, &c., care of G. M. Plympton, 195 Broadway, New York city, N. Y.:

Please find below a communication from the examiner in relation to your application for the reissue of your patent for improvement in post-office letter boxes, dated September 19, 1871.

Very respectfully, M. D. LEGGETT,
Commissioner.

EXAMINER'S ROOM NO. 1.

This application has been carefully examined. The alleged invention consists in facing the front of pigeon holes or post-office delivery boxes with metallic casings and doors as a more durable or safe facing than the usual glass and wooden ones. This application was originally rejected on references to analogous structures in architecture, which references, given in a similar case, were adjudged on appeal not to be sufficiently similar, and hence the issue of this patent.

In view of the familiar substitution of iron doors for wooden ones, whenever strength or security is desired, as in banks, warehouses, prison cells, safes for valuables, &c., it is certain that the ordinary mechanic is able and willing to make such doors of any size to order indefinitely, and to accurately fit them and secure them wherever convenience or caprice may suggest their employment.

That any one should acquire a monopoly of a particular application of so familiar an expedient, in consideration for which restriction of common right no information is communicated to the public and no improvement in any art, machine, manufacture, or composition of matter even suggested, certainly does not appear to be in accordance with the spirit of the patent law or with the general tenor of judicial and official construction of the law.

From the oft-cited case of Hotchkiss *vs.* Greenwood to Judge Merrick's decision in Maynard's appeal, October 9, 1857 (Book of
455 Appeals, vol. 3, pages 61, 62), and to the Commissioner's decisions July 13, 1869 (*in re* A. C. Platt), September, 10, 1869, (Dimond and Doolittle), and November 5, 1870 (Osborne and Dayton), it has been well established that the simple substitution of one familiar material for another (and especially in analogous use) is not the legitimate subject for a patent.

Nor is any detail proposed in the two claims advanced—that is, outside of the ordinary practice of the mechanic or that is not the almost inevitable incident of the use of iron in such a relation. Two ways of attaching the frame to the pigeon hole, and two ways only, could easily be suggested, to wit, nails or screws passing into the wood-work through the front of the frame or nails or screws passing laterally into the wood-work through ears or flanges from within. It is hardly necessary to say that the applicant has not selected the former way for a monopoly.

If it be true that post-office delivery boxes are commonly, openly,

and notoriously exposed to burglarious violence it would seem to be a very judicious thing to protect them by iron. It does not seem to be a very just thing that any one should hold an exclusive license to permit this possibly judicious action by the public authorities.

The application is accordingly refused.

WM. B. TAYLOR, *Examiner.*

(Endorsed:) To S. N. Brooks. Rejection. May 27, 1872.

WASHINGTON, D. C., *June* 13, 1872.

Hon. Commissioner of Patents.

SIR: In the matter of the application of Silas N. Brooks, administrator, &c., for reissue of letters patent for fronts for post-office letter boxes, dated September 19, 1871, I hereby respectfully submit the case for reconsideration.

Your obedient servant, G. M. PLYMPTON,
Attorney for S. N. Brooks, Administrator, &c.

(Endorsed:) App. letter. Filed June 13, 1872. C. W. F.

456 (No. 1.) U. S. PATENT OFFICE,
WASHINGTON, D. C., *June* 13, 1872.

Silas N. Brooks, adm'r, &c., care of G. M. Plympton, 195 Broadway, New York city:

Please find below a communication from the examiner in relation to your application for the reissue of your patent for improvement in post-office letter boxes, dated September 19, 1871.

Very respectfully, M. D. LEGGETT,
Commissioner.

EXAMINER'S ROOM No. 1.

This application has been re-examined as requested and, on the ground stated in the former letter of May 17, is a second time rejected.

WM. B. TAYLOR, *Examiner.*

(Endorsed:) To S. N. Brooks. Second rejection. June 13, 1872.

U. S. PATENT OFFICE.

Reissue.

Application of SILAS N. BROOKS, administrator of Linus Yale, Jr., deceased. Filed May 7, 1872.

Contents of this File.

1. Application.
2. Official letter, May 8, 1872.
3. Appeal to Commissioner, May 9, 1872.

457 4. Amendment, May 10, 1872.

5. Rejection, May 17, 1872.
6. Application letter, June 13, 1872.

7. Rejection, June 13, 1872.
8.
9.
10.
11.
12.
13.
14.
15.
16.
17.
18.

1872.

(Class 146.)

Reissue.

No. 4963.

Silas N. Brooks, administrator of Linus Yale, Jr., deceased, of Bernardston, county of Franklin, State of Massachusetts.

Post-office letter boxes.

Received May 7, 1872.
Petition " "
Affidavit " "
Specification May 7, 1872.
1. Drawing " "
Old patent, No. 119,212, September 19, 1871.
Certificate deposited.
1. Cash, $30, May 7, 1872.
Examined by the board June 21, 1872.
2. Issue, Knight, June 22, 1872.
458 4. Patented September 19, 1871.
Reissued July 9, 1872.
Recorded vol. —, page —.

G. M. PLYMPTON,
New York, 195 *Broadway, N. Y.*

(Written across the face in red ink:) Reissued April 24, 1877; No. 7625.

1872.

Letter May 8, 1872.
Rejected May 17, 1872.
Rejected June 13, 1872.
Passed by board June 21, 1872.
Improvement in post-office letter boxes.
Ex'd: E. A. M., H. M. H.

459 DEFENDANT'S EXHIBIT FILE WRAPPER APPEAL, 1872 RE-ISSUE. J. A. S., Examiner. F. W. 3.

THE YALE LOCK MANUFACTURING COMPANY

vs.

THOMAS L. JAMES

DEPARTMENT OF THE INTERIOR,
UNITED STATES PATENT OFFICE.

To all persons to whom these presents shall come, Greeting:

This is to certify that the annexed is a true copy from the files of this office of the file wrapper and contents of the appeal to the examiners-in-chief in the matter of the reissue application of Silas N. Brooks, administrator of Linus Yale, Jr., deceased, filed June 13, 1872, for fronts for post-office letter boxes.

In testimony whereof I, E. M. Marble, Commissioner of Patents, have caused the seal of the Patent Office to be hereunto affixed this twenty-first day of March, in the year of our Lord one thousand eight hundred and eighty-one, and of the Independence of the United States the hundred and fifth.

[SEAL.] E. M. MARBLE,
Commissioner.

460 WASHINGTON, D. C., *June* 13, 1872.

Hon. Commissioner of Patents:

SIR: In the matter of the application of Silas N. Brooks, administrator, &c., for reissue of letters patent for fronts for post-office letter boxes, dated Sept. 19, 1871, I hereby appeal to the examiners-in-chief from the decision of the principal examiner rejecting the application rendered June 13, 1872.

The following is assigned as the reason of appeal:

That the question in dispute has already been adjudicated by the board of examiners-in-chief and decided in favor of applicant.

That the references now cited are substantially the same as those formerly considered by the board.

Very resp'y, your ob't serv't,

G. M. PLYMPTON.

(Endorsed:) Reasons of appeal. Filed June 13, 1872. Silas N. Brooks, administrator of Linus Yale, Jr., deceased. Board of appeal, June 13, 1872, U. S. Patent Office. U. S. A., Patent Office, June 13, 1872.

461 U. S. PATENT OFFICE,
WASHINGTON, D. C., *June* 13, 1872.

In the Matter of the Appeal of SILAS N. BROOKS, administrator, &c.

To the examiners-in-chief:

The reasons of appeal aver that the question of patentability in this case is *res ajudicata*, and that no new references have been cited.

The patent now sought to be reissued was originally rejected on specific references, naturally raising the question of identity or equivalency.

The present reissue application has been rejected without any references on the broader, if not sounder, ground of want of any patentable subject-matter in view of the universally-recognized state of the art of iron working.

It is upon this issue that the decision of the examiners-in-chief is respectfully solicited.

WM. B. TAYLOR, *Examiner.*

(Endorsed:) Examiners' statement, June 13, 1872. Silas N. Brooks, administrator of Linus Yale, Jr., deceased. Board of appeal, June 13, 1873, U. S. Patent Office.

462 U. S. PATENT OFFICE, *June* 17, 1872.

No. 1540.

Before the examiners-in-chief on appeal.

Silas N. Brooks, administrator of L. Yale, application for the reissue of the patent for "letter-box fronts," granted to him Sept. 19, 1871.

The patentability of the subject-matter of the claim has been too often adjudicated by the examiner and by this board and the Commissioner in the application of Burt, and in the declaration of interference between him and Yale and the proceedings therein, and in the application and proceedings therein of Yale, and in the issuing to him of the patent sought to be reissued, to be a question for a moment's consideration.

The decision of the examiner is reversed.

Had an objection been taken to the form of the second claim for including the words "and enclosed in whole or in part," as not warranted by anything contained in the original application, and also for not being clearly limited to the device substantially shown and described, it would probably have been sustained.

The object aimed at by the insertion of the words referred to is undoubtedly justifiable and might be fairly reached by simply leaving out those words altogether, with, perhaps, some similar expressions of unnecessary restriction in the body of the specification.

R. S. B. CLARKE,
S. H. HODGES,
ELLIS SPEAR.
Examiners-in-Chief.

(Endorsed:) Reissue. Silas N. Brooks, administrator of Linus Yale, Jr., deceased. Board of appeal, June 17, 1872, U. S. Patent Office. Letter boxes. Reversed. Recorded, vol. 10.

463 (No. 30.)

U. S. PATENT OFFICE, *June* 17, 1872.

SIR: Your application for a reissue of your patent for front for letter boxes has been considered by the examiners-in-chief upon appeal, and they reverse the decision of examiner.

Respectfully, &c.,

(Sig.) M. D. LEGGETT,
Commissioner of Patents.

S. H. Brooks, care of G. M. Plympton, Esq., No. 245 Broadway, New York.

(Copy.)

F. C. LOTHROP.

(Endorsed:) S. N. Brooks. Board of appeals, June 17, 1872, U. S. Patent Office.

1872.

Appeal to Examiner-in-Chief.

Reissue. No. 1540.

Silas N. Brooks, administrator of Linus Yale, Jr., deceased.

Of
County of
State of

Fronts for P. O. letter boxes.

Rec'd June 13, 1872.
Petition, "
Affidavit,
Specification,
Drawing,
Model,
Cert. dep.,
464 1. Cash, $10, June 13, 1872.
Add'l fee cert.,
" " cash,
Examined,
2. Issue,
4. Patented, 187 .
Recorded vol. 10, page —, examiners-in-chief.
Circular.

G. M. PLYMPTON,
245 *Broadway, N. Y. City.*

1872.

1. Reasons of appeal, June 13, 1872.
2. Ex'r's statement, June 13, 1872.
3. Reversed, June 17, 1872.
4. Notice, June 17, 1872.

Ex'd: J. A. W., M. McK.

465 DEFENDANT'S EXHIBIT 1877 REISSUE. J. A. S., Ex'r.

THE YALE LOCK MANUFACTURING COMPANY

vs.

THOMAS L. JAMES.

DEPARTMENT OF THE INTERIOR,
UNITED STATES PATENT OFFICE.

To all persons whom these presents shall come, Greeting:

This is to certify that the annexed is a true copy from the records of this office of the reissue letters patent granted the Yale Lock Manufacturing Company, April 24, 1877, No. 7625, for improvement in post-office boxes.

In testimony whereof I, E. M. Marble, Commissioner of Patents, have caused the seal of the Patent Office to be hereunto affixed this twenty-first day of March, in the year of our Lord one thousand eight hundred and eighty-one, and of the Independence of the United States the one hundred and fifth.

[SEAL.] E. M. MARBLE,
Commissioner.

Reissue No. 7625.

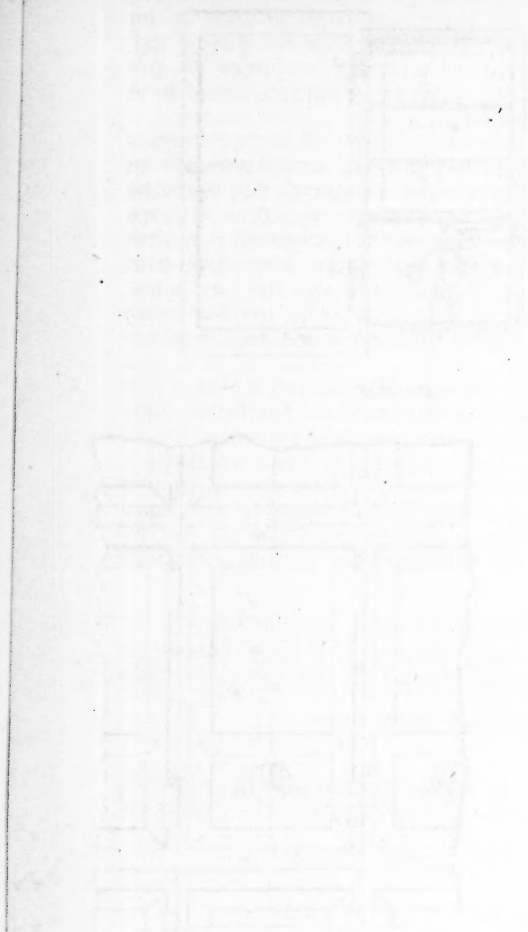
The United States of America to all whom these presents shall come:

Whereas Silas A. Brooks, of Chicago, Illinois, administrator of Linus Yale, Jr., deceased, assignor to the Yale Lock Manu-
466 facturing Company, of Stamford, Connecticut, has presented to the Commissioner of Patents a petition praying for the reissue of letters patent for an alleged new and useful improvement in post-office boxes (for which letters patent were issued to him, dated September 19, 1871, the same surrendered and new letters issued to him, dated July 9, 1872, which last letters having been surrendered the same have been canceled and new letters ordered to issue to said assignee on an amended specification), a description of which invention is contained in the specification of which a copy is hereunto annexed and made a part hereof, and has complied with the various requirements of law in such cases made and provided; and

Whereas, upon due examination made, said claimant is adjudged to be justly entitled to a patent under the law:

Now, therefore, these letters patent are to grant unto the said The Yale Lock Manufacturing Company, its successors or assigns, for the term of seventeen years from the nineteenth day of September, one thousand eight hundred and seventy-one, the exclusive right to make, use, and vend the said invention throughout the United States and the Territories thereof.

In testimony whereof I have hereunto set my hand and caused the seal of the Patent Office to be affixed, at the city of Washington, this twenty-fourth day of April, in the year of our Lord one thou-



L. YALE, Jr., dec'd.

S. N. Brooks, Administrator, Assignor to the Yale Lock Manufacturing Co.

POST OFFICE BOX.

No. 7,625. Reissued April 24, 1877.

Fig 1.

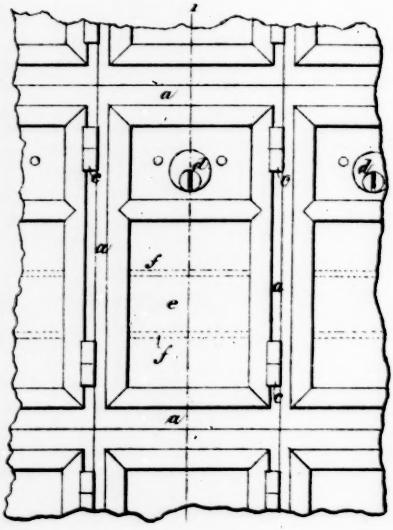


Fig 2

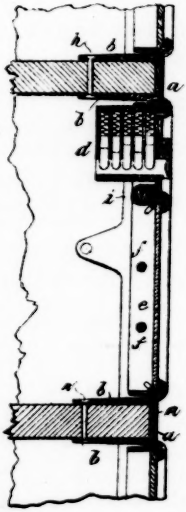
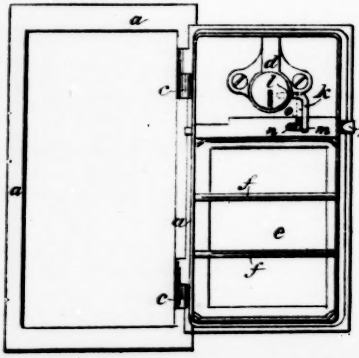


Fig 3.



No 162
Yale Lock
Mfg Co.
vs
James
} p. 467.

WITNESSES

Wm A Stinsley
F. Stith

INVENTOR

Silas N. Brooks
Administrator of the Estate of
Linus Yale Jr. deceased

By his Attorneys Baldwin, Hopkins & Peyton.

sand eight hundred and seventy-seven, and of the Independence of the United States of America the one hundred and first.

[SEAL.] A. BELL,
Acting Secretary of the Interior.

Countersigned:
ELLIS SPEAR,
Commissioner of Patents.

(Here follows diagram marked p. 467.)

SILAS N. BROOKS, of Chicago, Illinois, administrator of Linus Yale, Jr., deceased, assignor to the Yale Lock Manufacturing Company, of Stamford, Connecticut.

Improvement in Post-Office Boxes.

Specification forming part of Letters Patent No. 119,212, dated September 19, 1871; reissue No. 4963, dated July 9, 1872; reissue No. 7625, dated April 24, 1877; application filed April 19, 1875.

To all whom it may concern:

Be it known that Linus Yale, Jr., deceased, late of Shelburne Falls, in the county of Franklin and State of Massachusetts, during his lifetime invented a new and useful improvement in post-office boxes, and I, Silas N. Brooks, administrator of the estate of the said Linus Yale, Jr., deceased, do hereby declare the following to be a full, clear, and exact description thereof sufficient to enable others skilled in the art to understand, construct, and use the same, reference being had to the accompanying drawing forming a part of this specification, in which—

Figure 1 is an elevation taken from the front or delivery side of a series of boxes. Fig. 2 is a vertical section through the same, and Fig. 3 is a front elevation of a single box frame with the door open.

This invention relates to an improvement in post-office lock boxes and consists in constructing the front for closing the outer ends of such boxes, respectively, of metal doors and frames suitably hinged together, the frames so arranged as to overlap and cover, in whole or in part, the front edges of the boxes to which they are to be secured. My invention also consists in providing suitable means for securing such frames to the boxes.

Lock boxes have heretofore been made in which the doors were attached directly to the front ends of the boxes, as shown in the patent of Jacob H. Beidler, No. 57464, granted August 28,
469 1866, but the hinging of the doors directly to the sides of the boxes is troublesome and insecure, because it leaves the edges of the boxes exposed to convenient attack.

The body of the boxes may be made of wood in the usual manner, but the door and door frame which compose the front of the boxes, respectively, are made of iron or other suitable metal. Each door frame is so made that it aids in covering the edges of the

wooden partitions forming the walls of the boxes, and is connected with other frames above, below, and on each side of it in such a manner that the frames will make a continuous metallic frontage, no part of which can be removed from the outside without pulling down other parts. Each frame made as before stated of metal has all around it a flange, *a a*, which protects the outside or edges of the wood-work; the sides of the frames *b b* enter and fit closely against the wood forming the pigeon holes, and may be continuous or notched out at intervals, and each frame has attached to it one leaf of two or more hinges, *c c*. The door may be of any desirable metal, solid where the lock *d* is attached, and having an opening, *e*, below in which a plate of glass is secured I prefer to locate rods *f f* behind the plate to prevent the introduction of a hand if the glass be broken. The door is so constructed that when shut it enters within the frame, so that it cannot be lifted from its hinges. When the frames are all in place each frame is riveted through the wood-work to its four neighbors (see *h h*, Fig. 2), and in this way a continuous metal frontage is formed. The door for each frame has a small spring bolt, *i*, and a lock, *d*, attached to it. An arm, *k*, of wire or other material is attached to the turning mechanism of the lock *d* through a slot, *l*, made in the casing in which the tumblers, &c., are placed. This arm is bent at its free end, and engages with a pin, *m*, which is attached to bolt, *i*. The casing of this bolt is slotted horizontally at *n*, and vertically at *o*, in which slots the pin *m* moves to push out and draw in the bolt and to lock it when pushed or thrown out.

This device forms, in the hands of the postmaster, a perfect safeguard against all entrance to the box by means of the key, as is more particularly set forth in letters patent granted to me on the 24th day of October, 1871, and numbered 120,177.

470 What I claim as the invention of the said Linus Yale, Jr., deceased, is—

1. As a new article of manufacture, a metallic front for post-office lock boxes, consisting of a frame and door suitably hinged together and provided with a lock for controlling said door from the outside, the said front being adapted to fit and close one end of a box, the other end of which is open for the insertion of mail matter, substantially as specified.

2. The combination, substantially as specified, of several door frames and doors with post-office boxes, whereby a continuous metallic frontage is formed.

3. The combination, substantially as specified, of two or more metallic frames and doors with post-office boxes, said frames having flanges which protect and inclose the front edges of the pigeon hole.

4. The combination, substantially as specified, of two or more metallic frames and doors with post-office boxes, the frames connected together by means of rivets passing through them and through the wood-work of the pigeon holes.

5. The combination, substantially as specified, of a metallic door, provided with a glass panel and a metallic pigeon-hole frame to which the door is hinged.

6. The combination of a post-office box, open at the rear end, and a metallic frame secured to the front end of it, substantially as specified.

SILAS N. BROOKS,
Administrator of the Estate of Linus Yale, Jr., Deceased.

Witnesses:
C. C. KOHLSBAT.
J. W. EDDY.

471 DEFENDANT'S EXHIBIT 1877 FILE WRAPPER. J. A. S., Ex'r.

THE YALE LOCK MANUFACTURING COMPANY
vs.
THOMAS L. JAMES.

DEPARTMENT OF THE INTERIOR,
UNITED STATES PATENT OFFICE.

To all persons to whom these presents shall come, Greeting:

This is to certify that the annexed is a true copy from the files of this office of the file wrapper and contents in the matter of the reissue letters patent granted Silas N. Brooks, administrator of Linus Yale, Jr., deceased, assignor to the Yale Lock Manufacturing Company, April 24, 1877, No. 7625, for improvement in post-office boxes.

In testimony whereof I, E. M. Marble, Commissioner of Patents, have caused the seal of the Patent Office to be hereunto affixed this twenty-first day of March, in the year of our Lord one thousand eight hundred and eighty-one, and of the Independence of the United States the one hundred and fifth.

[SEAL.] E. M. MARBLE,
Commissioner.

472 NEW YORK, *April* 17, 1875.

Honorable Commissioner of Patents:

SIR: Enclosed please find specification, drawings, old patent, abstract of title, and check for $30 Government fee, constituting the application of Silas N. Brooks, administrator of the estate of Linus Yale, Jr., deceased, for reissue of reissued letters patent No. 4963 granted to him July 9, 1872, for post-office letter box.

Let the case be filed as usual, and oblige

Yours, &c., &c., G. M. PLYMPTON.
W.

(Endorsed:) Patent Office, April 19, 1875, U. S. A.

Petition. Reissue.

To the Commissioner of Patents:

Your petitioner, of Chicago, in the county of Cook and State of Illinois, prays that he may be allowed to surrender the reissued letters

patent No. 4963 for an improvement in post-office letter boxes granted to him as administrator of the estate of Linus Yale, Jr., deceased, on the 9th day of July, 1872 (the original letters patent having been granted on the 19th day of September, 1871, No. 119,212), whereof he as such administrator is now sole owner, and that letters patent may be reissued to him for the same invention upon the annexed amended specification; and he hereby authorizes G. M. Plympton, of New York City, or his accredited agent or agents, to act as his attorneys in presenting the application, to make such alterations or amendments as may be required, to sign his name to the drawings, and to receive the letters patent when issued.

Accompanying this petition is an abstract of title, duly certified, as required in such cases.

SILAS N. BROOKS.

473 [To all whom it may concern:

Be it known that Linus Yale, Jr., deceased, late of Shelburne Falls, in the county of Franklin and State of Massachusetts, during his lifetime invented a new and useful improvement in doors for post-office boxes, and I, Silas N. Brooks, of Chicago, Illinois, administrator of the estate of the said Linus Yale, Jr., deceased, do hereby declare the following to be a full, clear, and exact description thereof sufficient to enable others skilled in the arts to understand, make, and use the same, reference being had to the accompanying drawing forming a part of this specification, in which—

Figure 1 is an elevation taken from the front or delivery side of a series of boxes.

Figure 2 is a vertical section through the same, and

Figure 3 is a front elevation of a single box frame with the door open.

This invention relates to an improvement in the fronts of post-office boxes, and consists in making said fronts, including the doors and box frames, of metal, said box frames being constructed so as to overlap and cover, in whole or in part, the front edges of the wooden pigeon holes to which they are affixed.]

Canceled per sub. spec'n, Oct. 14, 1876.

The body of the boxes is to be made of wood in the usual manner, viz., a series of pigeon holes, but the front of the box and the door frame are made of iron or other suitable metal. Each door frame or box front is so made that it aids in covering the edge of the wooden partition or pigeon holes, and is connected with the other frames above, below, and on each side of it in such manner that the frames will make a continuous frontage, no part of which can be removed from the outside without pulling down other parts. Each frame made, as before stated, of metal has all around it a flange, *a a*, which protects the outside or edges of the wood-work. The sides of the frames *b b* enter and fit closely against the wood forming the pigeon holes, and may be continuous or notched out at intervals, and each frame has attached to it one leaf of two or more hinges, *c c*. The door

NOTE.—Matter enclosed in brackets stricken out in original.

may be of any desirable metal, solid where the lock *d* is attached, and having an opening, *e*, below, in which a plate of glass is
474 secured. I prefer to locate rods *f f* behind the plate to prevent the introduction of a hand, if the glass be broken. The door is so constructed that when shut it enters within the frame, so that it cannot be lifted from its hinges. When the frames are all in place each frame is riveted through the wood-work to its four neighbors (see *h h*, Fig. 2), and in this way form a continuous metal frontage. The door for each frame has a small spring bolt, *i*, and a lock, *d*, attached to it, the two operating together and forming, in the hands of the postmaster, a perfect safeguard against all entrance to the box by means of the key, as is more particularly set forth in letters patent granted to me on the 24th day of October, 1871, and numbered 120,177.

What I claim as the invention of the said Linus Yale, Jr., deceased, is—

First. The combination of several box frames with each other, and with pigeon holes as described, by means of rivets passing through the frame and the wood-work entering between the said frames, the combination being substantially as described.

Second. The combination of two or more metallic frames and doors and locks with pigeon holes, said frames having flanges which protect and enclose, wholly or in part, the front edges of said pigeon holes.

[Third. A post-office lock box provided with a device, by means of which access to the interior of the box by the holder of the key thereof is prevented.

Fourth. A series of pigeon holes framed together, open at their back ends for the insertion of matter, and their other ends closed by a series of box fronts, each consisting of a frame and a door hung thereto.

Fifth. The subject-matter of the preceding claim in combination with a lock attached to the door.

Sixth. The subject-matter of the two preceding claims in combination with a glass panel contained within the door.

Seventh. The subject-matter of the three preceding claims in combination with guards protecting the glass against injury or violence.

475 Eighth. The subject-matter of the four preceding claims in combination with a device, by means of which access to the interior of the box by the holder of the key thereof is prevented.

Ninth. The subject-matter of the third and fourth claims in combination with a device, by means of which access to the interior of the box by the holder of the key thereof is prevented.

Tenth. The subject-matter of the third, fourth, and fifth claims in combination with a device, by means of which acccess to the interior of the box by the holder of the key thereof is prevented.

Erase and insert A. May 21, 1875.

NOTE.—Matter enclosed in brackets stricken out in original.

Eleventh. The subject-matter of the second claim in combination with a glass panel contained within the door.]

SILAS N. BROOKS,
Administrator of the Estate of Linus Yale, Jr., Deceased.

Witnesses:
C. C. KOHLSBAT.
J. W. EDDY.

Oath.

STATE OF ILLINOIS, }
County of Cook, } ss:

Silas N. Brooks, the above-named petitioner, being duly sworn, deposes and says that he verily believes that by reason of an insufficient or defective specification his aforesaid letters patent are inoperative or invalid; that the said error has arisen from inadvertence, accident, or mistake, and without any fraudulent or deceptive intention, to the best of his knowledge and belief; that he, as administrator of the estate of Linus Yale, Jr., deceased, is the sole owner of said letters patent, and that he verily believes the
476 said Linus Yale, Jr., to have been the first and original inventor of the improvement set forth and claimed in this amended specification.

SILAS N. BROOKS,
Administrator of the Estate of Linus Yale, Jr., Deceased.

Sworn to and subscribed before me this 19th day of May, 1873.
[L. S.]
C. C. KOHLSBAT,
Notary Public.

(Endorsed:) Silas N. Brooks, administrator of the estate of Linus Yale, Jr., deceased. Reissue. Improvement in post-office letter boxes. Patent Office, Apr. 19, 1875, U. S. A. G. M. Plympton, solicitor of patents, 245 Broadway, N. Y.

(Written across face in red ink:) Spec'n cancelled per sub. spec'n Oct. 14, '76.

THE UNITED STATES PATENT OFFICE.

To all persons to whom these presents shall come, Greeting:

This is to certify that careful search has been made of the digest of this office, and no assignment, agreement, license, power of attorney, or other instrument of writing is found of record under or relating to letters patent granted to Silas N. Brooks, administrator of Linus Yale, Jr., No. 119,212, dated September 19, 1871, and reissued July 9, 1872, No. 4963, for "post-office letter box."

In testimony whereof I, Ellis Spear, Acting Commissioner of Patents, have caused the seal of the Patent Office to be hereunto affixed this twenty-sixth day of March, in the year of our Lord one thousand eight hundred and seventy-five, and of the Independence of the United States the ninety-ninth.

[L. S.]
ELLIS SPEAR,
Acting Commissioner.

(Endorsed:) Patent Office, Apr. 19, 1875, U. S. A.

NOTE.—Matter enclosed in brackets stricken out in original.

477 No. 1.

EXAMINER'S ROOM No. 25,
U. S. PATENT OFFICE,
WASHINGTON, D. C., *May* 11, 1875.

Reissue app'n post-office letter box. Filed Apr. 19, 1875. Reissue 4963, Jul. 9, 1872. Patent 119,212, Sep. 19, '71.

Silas N. Brooks, adm'r of Linus Yale, dec'd, care G. M. Plympton, 245 Broadway, N. Y.:

Claims 5 to 11, inclusive, are informal and incomplete, inasmuch as they are made to depend on other claims for their interpretation. 9 and 10 especially are so ambiguous as not to be intelligible, and cannot receive action on their merits. Each claim must define in words what it is intended to cover in order to comply with the statute. (See C. D., in case of J. M. Cornell, O. G., vol. 1, p. 573.) Claim 3 is objected to on the ground that it covers any and all means of accomplishing a result. (See C. D., *in re* Woodside, Dec. of 1870, p. 1.) It is also rejected for lack of invention on the ground that, it being common to secure doors with catch locks, there is no invention in the application of such a lock to a particular door. Claim 4 is met by post-office boxes of similar construction in use in the city of New Haven, Conn., as early as 1859, viz., boxes No. 2291 to 2349; Also by patent No. 69637, A. Davis, October 8, 1867, advertising. The alleged combination set forth in claims 5, 6, 7, 8, 11 is denied. If existing, the combination is met by the reference cited.

F. L. FREEMAN,
Assistant in Charge.
BARTLETT, 2*d Assistant.*

(Endorsed:) S. N. Brooks. May 11, 1875. Rej'd.

478 Before the Honorable Commissioner of Patents.

In the Matter of the Application of SILAS N. BROOKS, administrator of Linus Yale, Jr., deceased, for reissue of letters patent for post-office letter boxes. Filed April 19, 1875.

[SIR: I hereby amend the above-named application by erasing all of the claims except the 1st and 2d and inserting the following:

A. "3d. In a series of post-office letter boxes open at one end for the insertion of matter, and having the front formed of metallic frames and doors, a locking device attached to the doors by which the postmaster has entire control of access to such boxes, substantially as specified."]

Respectfully submitted,

G. M. PLYMPTON, *Att'y.*

N. B.—Please address me room 1, Patent Office.

(Endorsed:) Silas N. Brooks. May 21, '75. Amendment A. Cancelled per sub. spec'n. Filed Oct. 14, 1876. Patent Office, May 21, 1875, U. S. A.

NOTE.—Matter enclosed in brackets stricken out in original.

No. 1.

EXAMINER'S ROOM NO. 25.
U. S. PATENT OFFICE,
WASHINGTON, D. C., *May* 31, 1875.

Reissue app'n post-office letter box. Filed April 19, 1875. Old pat. reissue 4693, Jul. 9, 1862.

Silas M. Brooks, care G. M. Plympton, present:

The alleged invention covered by the 3d claim is met by the common night lock or bolt applied to hall doors, which gives
479 to the occupant of the house complete control of the door, so that it cannot be opened even with a proper key. The so-called invention is mere double use, and the claim must be rejected for lack of novelty.

F. L. FREEMAN,
Assistant in Charge,
BARTLETT, 2*d Assistant.*

(Endorsed:) S. N. Brooks. May 31, '75. Rej'd.

To the Commissioner of Patents:

Your petitioner, Silas N. Brooks, administrator of Linus Yale, Jr., deceased, prays that the letters patent for improvement in post-office letter boxes granted July 9, 1872, to your petitioner as administrator may be reissued to the Yale Lock Manufacturing Company of Stamford Connecticut, for the same invention upon the annexed amended specification.

Also that you will recognize Baldwin, Hopkins & Peyton, of Washington. D. C., as his duly authorized attorneys, with full power of revocation and substitution to prosecute this application, to make alterations and amendments therein, to receive the patent, and to transact all business in the Patent Office connected therewith. Accompanying this petition is an abstract of title duly certified, as required in such cases.

SILAS N. BROOKS,
Administrator of the Estate of Linus Yale, Jr., Deceased.

The Yale Lock Manufacturing Company concurs in the above petition and power of attorney.

YALE LOCK MANUFACTURING COMPANY.
HENRY R. TOWNE, *President.*

480 [To all whom it may concern:

Cancelled per sub. spec'n. Filed April 13, 1877.

Be it known that Linus Yale, Jr., deceased, late of Shelburne Falls, in the county of Franklin and State of Massachusetts, during his lifetime invented a new and useful improvement in doors for post-office boxes, and I, Silas N. Brooks, administrator of the estate of the said Linus Yale, Jr., deceased, do hereby declare the following to be a full, clear, and exact description

NOTE.—Matter enclosed in brackets stricken out in original.

thereof sufficient to enable others skilled in the arts to understand, make, and use the same, reference being had to the accompanying drawing forming a part of this specification, in which—

Figure 1 is an elevation taken from the front or delivery side of a series of boxes.

Figure 2 is a vertical section through the same, and

Figure 3 is a front elevation of a simple box-frame with the door open.

This invention relates to an improvement in the fronts of post-office boxes, and consists in making said fronts, including the doors and box frames, of metal, said box frames being constructed so as to overlap and cover, in whole or in part, the front edges of the wooden pigeon holes to which they are affixed.

The body of the boxes is to be made of wood in the usual manner, viz, a series of pigeon holes, but the front of the box and the door frame are made of iron or other suitable metal. Each door frame or box front is so made that it aids in covering the edges of the wooden partitions or pigeon holes, and is connected with the other frames above, below, and on each side of it in such manner that the frames will make a continuous frontage, no part of which can be removed from the outside without pulling down other parts. Each frame made, as before stated, of metal has all around it a flange, *a a*, which protects the outside or edges of the wood-work. The sides of the frames *b b* enter and fit closely against the wood forming the pigeon holes, and may be continuous or notched out at intervals, and each frame has attached to it one leaf of two or more hinges, *c c*.

The door may be of any desirable metal, solid where the lock *d* is attached, and having an opening, *e*, below, in which a plate 481 of glass is secured. I prefer to locate rods, *f f*, behind the plate to prevent the introduction of a hand if the glass be broken. The door is so constructed that when shut it enters within the frame, so that it cannot be lifted from its hinges. When the frames are all in place each frame is riveted through the wood-work to its four neighbors (see *h h*, Fig. 2), and in this way form a continuous metal frontage. The door for each frame has a small spring bolt, *i*, and a lock, *d*, attached to it, [the two operating together and forming] in the hands of the postmaster a perfect safeguard against all entrance to the box by means of the key, as is more particularly set forth in letters patent granted to me on the 24th day of October, 1871, and numbered 120,177.

Erase and insert C, Mar. 14, 1877.

What I claim as the invention of the said Linus Yale, Jr., deceased, is—

1. The combination, substantially as specified, of a metallic door provided with a lock, and a metallic frame to which the door is hinged, the said frame being adapted to fit [into] and be secured to the end of a pigeon hole open at the rear end.

Erase per am'nd't, Mar. 14, 1877.

Per am'nd't, April 7, front

NOTE.—Matter enclosed in brackets stricken out in orignal.

1877. 2. The combination, substantially as specified, of several door frames and doors with pigeon holes, whereby a continuous metallic frontage is formed.

3. The combination, substantially as specified, of two or more metallic frames and doors with pigeon holes, said frames having flanges which protect and enclose the front edges of the pigeon holes.

4. The combination, substantially as specified, of two or more metallic frames and doors with pigeon holes, the frames connected together by means of rivets passing through them and through the wood-work of the pigeon holes.

Canceled per am'nd't, Mar. 27, 1877. [5. A post-office lock box provided with a substantially as described, device, by means of which access to the interior of the box by the holder of the key thereof is prevented.]

Insert B, Mar. 14, 1877. 5. The combination, substantially as specified, of a metallic door provided with a glass panel and a metallic pigeon hole frame, to which the door is hinged.]

(Endorsed:) Silas N. Brooks. Oct. 14, 1876. Sub. specification. S. N. Brooks. Oct. 14, 1876. Sub. spec'n. Written across in red ink: Canceled per sub. spec'n. Filed April 13, '77. Amended spec'n. Silas N. Brooks, adm'r of Linus Yale, Jr. P. O. boxes. Filed Ap'l 19, '75. Patent Office, Oct. 14, 1876, U. S. A.

482

WASHINGTON, D. C., *October* 14, 1876.

Hon. Commissioner of Patents, present.

SIR: I herewith file an abstract of assignment showing that the whole right, title, and interest in the reissued patent granted to Silas N. Brooks, No. 4963, July 9, 1872, has, together with the invention comprehended thereby, been assigned to my client, the Yale Lock Manufacturing Company. I therefore now present a petition from the said Silas N. Brooks, concurred in by the said company, that the reissue sought may be granted to the said company, and a request that the accompanying power of attorney to Baldwin, Hopkins & Peyton may be entered in the reissue application filed April 19, 1875. I hereby amend the said application by substituting the accompanying specification and claims.

Very respectfully,

M. S. HOPKINS,
Of Baldwin, Hopkins & Peyton.

(Endorsed:) Silas N. Brooks, Oct. 14, 1876. Letter to office. Silas N. Brooks, adm'r of Linus Yale, Jr. P. O. box. Filed Ap'l 19, '76. Letter to office. Patent Office, Oct. 14, 1876, U. S. A.

NOTE.—Matter enclosed in brackets stricken out in original.

483 UNITED STATES PATENT OFFICE.

To all persons to whom these presents shall come, Greeting:

This is to certify that the annexed is a true copy from the digest of this office of all assignments, agreements, licenses, powers of attorney, and other instruments of writing found of record under or relating to letters patent granted to Linus Yale, Jr., deceased, by Silas N. Brooks, administrator, No. 119,212, September 19, 1871. Reissued July 9, 1872, No. 4963, for "post-office letter box."

In testimony whereof I, W. H. Doolittle, acting Commissioner of Patents, have caused the seal of the Patent Office to be hereunto affixed this thirteenth day of October, in the year of our Lord one thousand eight hundred and seventy-six, and of the Independence of the United States the one hundred and first.

[L. S.] W. H. DOOLITTLE,
Acting Commissioner.

484 Assignors.	Assignees.	Date of assignment.	Date of record.	Invention.	Territory assigned.	Liber.	Page.
Silas N. Brooks, administrator of estate of Linus Yale, Jr., deceased.	The Yale Lock Manufacturing Company.	Oct. 9, '76	Oct. 13, '76	Letter boxes, September 19, 1871, No. 119,212. Reissued July 9, 1872, No. 4963.	All his right and interest in said invention and letters patent therefor to the full end of the term for which said letters patent are or may be granted.		

(Endorsed:) S. N. Brooks, adm't'r of L. Yale. P. O. box. R. I. Abs. of ass't. Patent Office, Oct. 14, 1876, U. S. A.

485 DEPARTMENT OF THE INTERIOR,
U. S. PATENT OFFICE,
WASHINGTON, D. C., *November* 2, 1876.

App. P. O. letter box. Filed April 19, 1875.

(Reissue.)

Silas N. Brooks, admi'st'r Linus Yale, Jr., deceased, care Baldwin, Hopkins & Peyton, present:

This application has been reconsidered as amended. Subject-matter of the fifth claim is not described in the specification. Apart from this, however, it is objected to as presenting subject-matter for a separate application.

F. L. FREEMAN, *Ex.*

FISHER.

(Endorsed:) S. N. Brooks. Nov. 2, 1876. Rej'd.

In the Matter of the Reissue Application of SILAS N. BROOKS for post-office box. Filed April 19, 1875.

WASHINGTON, D. C., *Nov.* 2, 1876.

To the Commissioner of Patents.

SIR: Baldwin, Hopkins & Peyton, of this city, are hereby appointed substituted attorneys in the above-mentioned application.

Respectfully, MARCUS S. HOPKINS, *Att'y.*

(Endorsed:) Power of attorney. Silas N. Brooks. Post-office box. Filed April 19, 1875. Patent Office, Nov. 7, 1876, U. S. A.

486 In the United States Patent Office.

In the Matter of the Reissue Application of SILAS N. BROOKS for letters patent for post-office box. Filed April 9, 1875.

WASHINGTON, D. C., *March* 14, 1877.

To the Commissioner of Patents.

SIR: Amend the above-mentioned application as follows:

In reply to the official letter of November 2, 1876, we would suggest that if a lock or guard or "device" *per se* were to be claimed in an application for improvements in post-office letter boxes, then a division could be properly required; but when a mere combination of a fastening device with a post-office lock box, or, in other words, a post-office lock box provided with such a device, is claimed, then a division is not demandable, for in the division both the box and the device would have to be shown as they now are.

There is no objection to a description more in detail than that presented if it be insisted upon, but it is submitted that the specification is the same as the patented one, and has once been deemed sufficient. As the claim is a broad combination claim, and not for the specific construction of the spring bolt *i* and lock *d*, it was supposed the description would suffice.

Add the following claim:

B, per am'd't, April 7, '77. [6th. The combination of a pigeon hole open at the rear end and a metallic frame secured to [one] the front end of it.]

Per am'd't, April 7, '77. In the first claim erase the word "into."

SILAS N. BROOKS,
By att'ys, BALDWIN, HOPKINS & PEYTON.

487 (Endorsed:) Amendment. S. N. Brooks. March 14, 1877. Amendment. (Written across in red ink: Canceled per B specification. Fled April 13, 1877.) Reissue. Silas N. Brooks. P. O. box. Filed Apr. 19, 1875. Patent Office, Mar. 14, 1877, U. S. A. Baldwin, Hopkins & Peyton, solicitors of patents, 25 Grant Place, Washington, D. C.

In the United States Patent Office.

In the Matter of the Reissue Application of SILAS N. BROOKS, administrator of Linus Yale, Jr., for letters patent for post-office box. Filed April 19, 1875.

WASHINGTON, D. C., *March* 16, 1877.

To the Commissioner of Patents.

SIR: Amend the above-mentioned application as follows: Page 2, line 21, erase "the two operating together and forming" and insert: [An arm, *k*, of wire or other material is attached to the turning mechanism of the lock *d* through a slot, *v*, made in the C. casing in which the tumblers, &c., are placed. This arm is bent at its free end and engages with a pin, *m*, which is attached to bolt *i*. The casing of this bolt is slotted horizontally at *n* and vertically at *o*, in which slots the pin *m* moves to push out and draw in the bolt and to lock it when pushed or thrown out. This device forms.]

SILAS N. BROOKS,
By att'ys, BALDWIN, HOPKINS & PEYTON.

(Endorsed:) S. N. Brooks. Amendment. March 16, 1877.
488 Amendment. (Written across in red ink: Cancelled per sub. spec'n April 13, 1877.) S. N. Brooks. P. O. box. R. I. Filed Ap'l 19, 1875. Patent Office, Mar. 16, 1877, U. S. A. Baldwin, Hopkins & Peyton, solicitors of Patents, 25 Grant Place, Washington, D. C.

DEPARTMENT OF THE INTERIOR,
U. S. PATENT OFFICE,
WASHINGTON, D. C., *March* 23, 1877.

Silas N. Brooks, administrator of Linus Yale, Jr., deceased, care Baldwin, Hopkins & Peyton, present:

Case, "post-office box." Filed April 19, 1875. Reissue of patent reissue No. 4963, July 9, 1872.

NOTE.—Matter enclosed in brackets stricken out in original.

This application has been again considered. The letters of reference in the amendment should be placed upon the drawing.

Claim 5 is anticipated by patent No. 57464, to J. O. Beidler, August 28, 1866 (post-office boxes).

F. L. FREEMAN, *Ex.*

FISHER, *Assistant.*

(Endorsed:) S. N. Brooks. Mar. 23, 1877. Rej'd.

489 In the United States Patent Office.

In the Matter of the Application of SILAS N. BROOKS for letters patent for post-office lock box. Filed April 19, 1875.

WASHINGTON, D. C., *March* 27, 1877.

To the Commissioner of Patents.

SIR: Amend the above-mentioned application as follows:

Erase the 5th claim.

SILAS N. BROOKS,
By att'ys, BALDWIN, HOPKINS & PEYTON.

(Endorsed:) Amendment. S. N. Brooks. Mar. 27, 1877. Amendment. (Written across in red ink: Canceled per sub. spec'n. Filed April 13, 1877.) Silas N. Brooks. P. O. lock box. Filed Apr. 19, 1875. Patent Office, Mar. 27, 1877, U. S. A. Baldwin, Hopkins & Peyton, solicitors of patents, 25 Grant Place, Washington, D. C.

490 In the United States Patent Office.

In the Matter of the Reissue Application of SILAS N. BROOKS for letters patent for post-office letter box. Filed April 19, 1875.

WASHINGTON, D. C., *April* 7, 1877.

To the Commissioner of Patents.

SIR: Amend the above-mentioned application as follows:

In first claim, last line, before the word "end," insert [front], and at the end of the claim insert [open at the rear end].

In the last claim, after "pigeon hole," insert [open at the rear end].

Also erase "one" and insert [the front] in the same claim.

SILAS N. BROOKS,
By att'ys, BALDWIN, HOPKINS & PEYTON.

(Endorsed:) Amendment. S. N. Brooks. April 7, 1877. Amendment. (Written across in red ink: Canceled per sub. spec'n. Filed April 13, '77.) Silas N. Brooks. P. O. box. Reissue. Filed Ap'l 19, 1875. Patent Office, Apr. 7, 1877, U. S. A. Baldwin, Hopkins & Peyton, solicitors of patents, 25 Grant Place, Washington, D. C.

NOTE.—Matter enclosed in brackets stricken out in original.

491 In the United States Patent Office.

In the Matter of the Reissue Application of SILAS N. BROOKS, administrator of Linus Yale, Jr., for letters patent for post-office boxes. Filed April 19, 1875.

WASHINGTON, D. C., *April* 12, 1877.

To the Commissioner of Patents.

SIR: Amend the above-mentioned application as follows:

Substitute for the original specification and amendments thereto the following-amended specification:

To all whom it may concern:

Be it known that Linus Yale, Jr., deceased, late of Shelburne Falls, in the county of Franklin and State of Massachusetts, during his lifetime invented a new and useful improvement in post-office boxes, and I, Silas N. Brooks, administrator of the estate of the said Linus Yale, Jr., deceased, do hereby declare the following to be a full, clear, and exact description thereof sufficient to enable others skilled in the arts to understand, construct, and use the same, reference being had to the accompanying drawing forming a part of this specification, in which—

Fig. 1 is an elevation taken from the front or delivery side of a series of boxes.

Fig. 2 is a vertical section through the same, and

Fig. 3 is a front elevation of a single box frame with the door open.

This invention relates to an improvement in post-office lock boxes, and consists in constructing the "front" for closing the outer
492 ends of such boxes, respectively, of metal doors and frames suitably hinged together, the frames so arranged as to overlap and cover, in whole or in part, the front edges of the boxes to which they are to be secured. My invention also consists in providing suitable means for securing such frames to the boxes.

Lock boxes have heretofore been made in which the doors were attached directly to the front ends of the boxes, as shown in the patent of Jacob H. Beidler, No. 57464, granted August 28, 1866, but the hinging of the doors directly to the sides of the boxes is troublesome and insecure, because it leaves the edges of the [wooden] boxes exposed to convenient attack.

The body of the boxes may be made of wood in the usual manner, but the door and door frame which compose the front of the boxes, respectively, are made of iron or other suitable metal. Each door frame is so made that it aids in covering the edges of the wooden partitions forming the walls of the boxes, and is connected with other frames above, below, and on each side of it in such manner that the frames will make a continuous metallic frontage, no part of which can be removed from the outside without pulling down other parts. Each frame made, as before stated, of metal has all

NOTE.—Matter enclosed in brackets stricken out in original.

around it a flange, *a a*, which protects the outside or edges of the wood-work. The sides of the frames *b b* enter and fit closely against the wood forming the pigeon holes, and may be continuous or notched out at intervals, and each frame has attached to it one leaf of two or more hinges, *c c*. The door may be of any desirable metal, solid where the lock *d* is attached, and having an opening, *e*, below, in which a plate of glass is secured. I prefer to locate rods *f f* behind the plate to prevent the introduction of a hand if the glass be broken. The door is so constructed that when shut it enters within the frame, so that it cannot be lifted from its hinges.

When the frames are all in place each frame is riveted through the wood-work to its four neighbors (see *h h*, Fig. 2), and in this way a continuous metal frontage is formed. The door for each frame has a small spring bolt, *i*, and a lock, *d*, attached to it. An arm, *k*, of wire or other material is attached to the turning mechanism of the lock *d* through a slot, *l*, made in the casing, in which the
493 tumblers, &c., are placed. This arm is bent at its free end and engages with a pin, *m*, which is attached to bolt *i*. The casing of this bolt is slotted horizontally at *n* and vertically at *o*, in which slots the pin *m* moves to push out and draw in the bolt, and to lock it when pushed or thrown out.

This device forms, in the hands of the postmaster, a perfect safeguard against all entrance to the box by means of the key, as is more particularly set forth in letters patent granted to me on the 24th day of October, 1871, and numbered 120,177.

What I claim as the invention of the said Linus Yale, Jr., deceased, is—

1. As a new article of manufacture a metallic front for post-office lock boxes, consisting of a frame and door suitably hinged together, and provided with a lock for controlling said door from the outside, the said front being adapted to fit and close one end of a box, the other end of which is open for the insertion of mail matter, substantially as specified.

2. The combination, substantially as specified, of several door frames and doors with post-office boxes, whereby a continuous metallic frontage is formed.

3. The combination, substantially as specified, of two or more metallic frames and doors with post-office boxes, said frames having flanges which protect and enclose the front edges of the pigeon hole.

4. The combination, substantially as specified, of two or more metallic frames and doors with post-office boxes, the frames connected together by means of rivets passing through them and through the wood-work of the pigeon holes.

5. The combination, substantially as specified, of a metallic door provided with a glass panel and a metallic pigeon-hole frame, to which the door is hinged.

6. The combination of a post-office box, open at the rear end, and a metallic frame secured to the front end of it, substantially as specified.

SILAS N. BROOKS,
By att'ys, BALDWIN, HOPKINS & PEYTON.

(Endorsed:) Amendment. S. N. Brooks, April 13, 1877. Sub. spec'n. Silas N. Brooks. P. O. boxes. Patent Office, Apr. 13, 1877, U. S. A. Baldwin, Hopkins & Peyton.

494 In the United States Patent Office.

In the Matter of the Reissue Application of Silas N. Brooks, administrator of Linus Yale, Jr., for letters patent for post-office box. Filed April 19, 1875.

Washington, D. C., *April* 16, 1877.

To the Commissioner of Patents.

Sir: Amend the above-mentioned application as follows:

Cancel the original drawings and substitute therefor the drawings herewith filed.

SILAS N. BROOKS, *Adm'r*,
By att'ys, BALDWIN, HOPKINS & PEYTON.

(Endorsed:) Amendment. S. N. Brooks, April 16, 1877. Amendment. Silas N. Brooks, administrator Linus Yale, Jr., deceased. P. O. boxes. Filed Ap'l 19, '75. Patent Office, Apr. 16, 1877, U. S. A. Baldwin, Hopkins & Peyton.

495 1875.

Reissue No. 7625.

Silas N. Brooks (administrator of Linus Yale, Jr., deceased, assignor to the Yale Lock Manufacturing Company, of Stamford, Conn.), of Chicago, county of Cook, State of Illinois.

Post-office letter boxes.

Received April 19, 1875.
Petition, " "
Affidavit, " "
Specification, " "
Drawing, " "
Abstract of title, April 19, 1875.
Old patent, reissue No. 4963, July 9, 1872.
Certificate deposited.
1. Cash, $30, April 19, 1875.
Examined, April 16, 1877. Freeman.
2. Issue, April 17, 1877. F. A. Seely.
3. Patented September 19, 1871.
Reissue, July 9, 1872.
Reissue, April 24, 1877.
Cir., April 17, 1877.

G. M. PLYMPTON,
245 *Broadway, New York City.*

Baldwin, Hopkins & Peyton, present.

(Written across the face in red ink:) Reissued July 1, 1879, No. 8783.

496 UNITED STATES PATENT OFFICE.

SILAS N. BROOKS, of Chicago, Illinois, administrator of Linus Yale, Jr., deceased, assignor to the Yale Lock Manufacturing Company, of Stamford, Connecticut.

Improvement in Post-Office Boxes.

Specification forming part of Letters Patent No. 119,212, dated September 19, 1871; Reissue No. 4963, dated July 9, 1872; Reissue No. 7625, dated April 24, 1877; application filed April 19, 1875.

To all whom it may concern:

Be it known that Linus Yale, Jr., deceased, late of Shelburne Falls, in the county of Franklin and State of Massachusetts, during his lifetime invented a new and useful improvement in post-office boxes; and I, Silas N. Brooks, administrator of the estate of the said Linus Yale, Jr., deceased, do hereby declare the following to be a full, clear, and exact description thereof, sufficient to enable others skilled in the arts to understand, construct, and use the same, reference being had to the accompanying drawing, forming a part of this specification, in which—

Figure 1 is an elevation taken from the front or delivery side of a series of boxes. Fig. 2 is a vertical section through the same, and Fig. 3 is a front elevation of a single box frame with the door open.

This invention relates to an improvement in post-office lock boxes, and consists in constructing the front, for closing the outer ends of such boxes, respectively, of metal doors and frames suitably hinged together, the frames so arranged as to overlap and cover, in whole or in part, the front edges of the boxes to which they are to be secured. My invention also consists in providing suitable means for securing such frames to the boxes.

Lock boxes have heretofore been made in which the doors
497 were attached directly to the front ends of the boxes, as shown in the patent of Jacob H. Beidler, No. 57464, granted August 28, 1866; but the hinging of the doors directly to the sides of the boxes is troublesome and insecure, because it leaves the edges of the boxes exposed to convenient attack.

The body of the boxes may be made of wood in the usual manner, but the door and door frame which compose the front of the boxes, respectively, are made of iron or other suitable metal. Each door frame is so made that it aids in covering the edges of the wooden partitions forming the walls of the boxes, and is connected with other frames above, below, and on each side of it in such a manner that the frames will make a continuous metallic frontage, no part of which can be removed from the outside without pulling down other parts. Each frame, made as before stated of metal, has all around it a flange, *a a*, which protects the outside or edges of the wood-work. The sides of the frames *b b* enter and fit closely against the wood forming the pigeon holes, and may be continuous or notched out at intervals, and each frame has attached to it one leaf of two or more

hinges, *c c*. The door may be of any desirable metal, solid where the lock *d* is attached, and having an opening, *e*, below, in which a plate of glass is secured. I prefer to locate rods *f f* behind the plate, to prevent the introduction of a hand if the glass be broken. The door is so constructed that when shut it enters within the frame so that it cannot be lifted from its hinges. When the frames are all in place each frame is riveted through the wood-work to its four neighbors (see *h h*, Fig. 2), and in this way a continuous metal frontage is formed. The door for each frame has a small spring bolt, *i*, and a lock, *d*, attached to it. An arm, *k*, of wire or other material is attached to the turning mechanism of the lock *d*, through a slot, *l*, made in the casing, in which the tumblers, &c., are placed. This arm is bent at its free end and engages with a pin *m*, which is attached to bolt *i*. The casing of this bolt is slotted horizontally at *n* and vertically at *o*, in which slots the pin *m* moves to push out and draw in the bolt, and to lock it when pushed or thrown out.

This device forms, in the hands of the postmaster, a perfect safeguard against all entrance to the box by means of the key, as is more particularly set forth in letters patent granted to me on the 24th day of October, 1871, and numbered 120,177.

498 What I claim as the invention of the said Linus Yale, Jr., deceased, is—

1. As a new article of manufacture, a metallic front for post-office lock boxes, consisting of a frame and door suitably hinged together and provided with a lock for controlling said door from the outside, the said front being adapted to fit and close one end of a box, the other end of which is open for the insertion of mail matter, substantially as specified.

2. The combination, substantially as specified, of several door frames and doors with post-office boxes, whereby a continuous metallic frontage is formed.

3. The combination, substantially as specified, of two or more metallic frames and doors with post-office boxes, said frames having flanges which protect and enclose the front edges of the pigeon hole.

4. The combination, substantially as specified, of two or more metallic frames and doors with post-office boxes, the frames connected together by means of rivets passing through them and through the wood-work of the pigeon holes.

5. The combination, substantially as specified, of a metallic door, provided with a glass panel and a metallic pigeon-hole frame to which the door is hinged.

6. The combination of a post-office box, open at the rear end, and a metallic frame secured to the front end of it, substantially as specified.

SILAS N. BROOKS,
Administrator of the Estate of Linus Yale, Jr., Deceased.

Witnesses:
C. C. KOHLSBAT.
J. W. EDDY.

(Here follows diagram marked page 499.)

L. YALE, Jr., dec'd.

S. N. Brooks, Administrator, Assignor to the Yale Lock Manufacturing Co.

POST OFFICE BOX.

No. 7,625. Reissued April 24, 1877.

Fig 1.

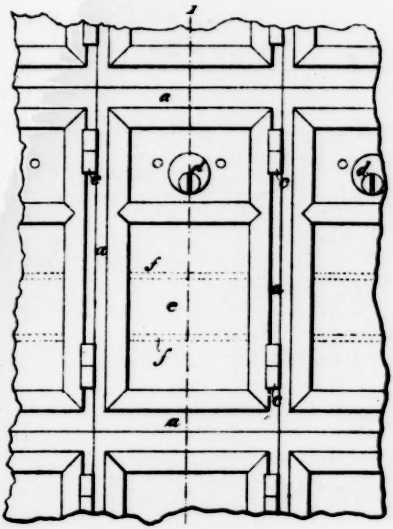


Fig 2

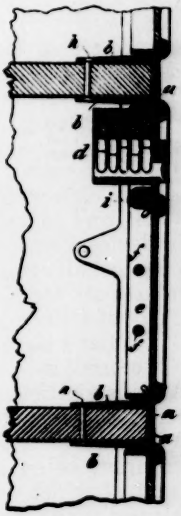
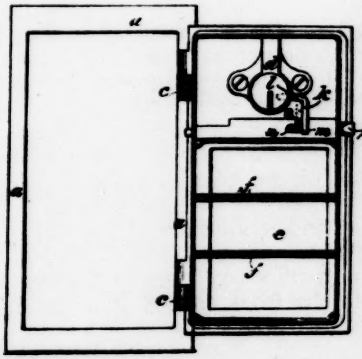


Fig 3.



No. 162 Yale Lock Mfg Co. Hines p. 499.

WITNESSES

Wm A Steinle
J. Otis

INVENTOR

Silas N. Brooks Administrator of the Estate of Linus Yale Jr. deceased

By his Attorneys Baldwin, Hopkins & Peyton

500 120. Stationery.

(140.) Post-office boxes.

1875.

Contents.

Application, 4 papers.
1. May 11, 1875, rejected.
2. " 21, " amendment A.
3. " 31, " rejected.
4. Oct. 14, 1876, sub. specification.
5. " " " letter to office.
6. Rejection, Nov. 2, 1876.
7. Amendment B, Mar. 14, 1877.
8. " C, " 16, "
9. Rejection, Mar. 23, 1877.
10. Amendment, Mar. 27, 1877.
11. " April 7, "
12. Sub-spec'n, " 13, "
13. Amendment, " 16, "
14.
15.
16.
17.
18.

Title: Improvement in post-office boxes.
Ex'd: C. F., E. K. L.

501 DEFENDANT'S EXHIBIT 1879 FILE WRAPPER. J. A. S., Ex'r.

THE YALE LOCK MANUFACTURING COMPANY

vs.

THOMAS L. JAMES.

DEPARTMENT OF THE INTERIOR,
UNITED STATES PATENT OFFICE.

To all persons to whom these presents shall come, Greeting:

This is to certify that the annexed is a true copy from the files of this office of the file wrapper and contents in the matter of the reissue letters patent granted the Yale Lock Manufacturing Company, assignee of S. N. Brooks, administrator of L. Yale, Jr., deceased, July 1, 1879, No. 8783, for improvement in post-office boxes.

In testimony whereof I, E. M. Marble, Commissioner of Patents, have caused the seal of the Patent Office to be hereunto affixed this twenty-first day of March, in the year of our Lord one thousand eight hundred and eighty-one, and of the Independence of the United States the one hundred and fifth.

[SEAL.] E. M. MARBLE,
Commissioner.

To the Commissioner of Patents:

Your petitioner, The Yale Lock Manufacturing Company of Stamford, Connecticut, prays that it may be allowed to surrender the letters patent for post-office box, patent, September 19, 1871,
502 119,212, No. 7625, granted 24 April, 1877, to said The Yale Lock Manufacturing Company, whereof said The Yale Lock Manufacturing Company is now sole owner, and that letters patent may be reissued to it, the said company, for the same invention upon the annexed amended specification.

Also that you will recognize Baldwin, Hopkins & Peyton, of Washington, D. C., as its duly authorized attorney, with full power of revocation and substitution, to prosecute this application, to make alterations and amendments therein, to receive the patent, and to transact all business in the Patent Office connected therewith.

Accompanying this petition is an abstract of title, duly certified as required in such cases.

THE YALE LOCK MANUFACTURING COMPANY,
[L. S.] By HENRY R. TOWNE, *President.*

We concur in the above petition, surrender, and power of attorney.

THE YALE LOCK MANUFACTURING COMPANY,
[L. S.] By HENRY R. TOWNE, *President.*

To all whom it may concern:

Be it known that Linus Yale, Jr., deceased, late of Shelburne Falls, in the county of Franklin and State of Massachusetts, during his lifetime invented a new and useful improvement in post-office boxes, and [we], The Yale Lock Manufacturing Company, assignee of the entire right and title to said invention, by [our] its president, hereby declare that the following is a full, clear, and exact description thereof, sufficient to enable others skilled in the arts to understand, make, and use the same, reference being had to the accompanying drawings forming part of this specification, in which—

Figure 1 is an elevation taken from the front or delivery side of a series of boxes.

Figure 2 is a vertical section through the same, and
503 Figure 3 is a front elevation of a single box frame with the door open.

This invention consists in an improvement in the construction of post-office boxes, and its chief feature is the combination of a tier of pigeon holes made of wood with a continuous frontage of metal, such frontage consisting of doors and their frames, which latter cover the ends of the boards which form the pigeon holes. A series of wooden pigeon holes, open at the rear and covered at the front or

NOTE.—Matter enclosed in brackets stricken out in original.

on the outside by a permanent glass front, is very old, and such a series was used for post-office boxes and in hotels as a receptacle for keys, cards, letters, etc. There has also been in use a series of wooden pigeon holes, each provided at one end with a door, as described in the patent granted to Jacob H. Beidler May 28, 1866, but in this patent the door is described as hinged to the wood and the construction is consequently insecure, as an ordinary pocket knife or small chisel will, even in inexperienced hands, suffice to cut away the wood or pry off the door so that the boxes may be entered.

Pigeon holes made of iron or other metal are difficult to construct and very costly, but such pigeon holes, each provided with an ordinary metal door, would be sufficiently secure. Such a degree of security at comparatively a low cost is attained by covering the front of a series of wooden pigeon holes with a continuous metallic frontage—that is, a frontage which presents a continuous surface of metal; or, in other words, a surface which covers the ends of the wooden pigeon holes in such manner that those portions of the wood to which the metallic frames are attached cannot be attacked when the doors making part of the frontage are closed. In constructing Yale's invention the body of the boxes or the series of pigeon holes is to be made of wood in any usual manner, and the fronts thereof, viz., the doors and their frames, are to be made of iron or other suitable metal.

Each door frame is of such size that it aids in covering the ends of the wooden partitions that form the pigeon holes to which it is applied, and these frames (see figure 1) are of such size and shape that where a series of them are combined with a series of pigeon holes they cover the whole of the ends of the wood.

Each door frame is a plate of metal, *a a*, which, when in
504 place, overlaps a part of the ends of the wood-work surrounding the pigeon hole, the outside of the frame enclosing a greater area than the orifice of the pigeon hole, and each frame has an ear, *b b*, which enters the pigeon hole; but this ear may be either continuous or notched out at intervals. The door is of iron or other metal, solid at top and having an opening, *e*, below, in which a plate of glass is secured and is hinged to the frame as at *c c*. It is preferable to locate rods *f f* behind the plate so as to prevent the introduction of a hand if the glass be broken and so to form and hinge the door that when shut it enters within the frame, so that it cannot be lifted from its hinges when shut.

When the frames are all in place each frame is riveted or bolted to the wood-work to fasten it thereto, and is also riveted or bolted to its four neighbors to secure the frames to each other (see *h h*, figure 2). Thus each frame is secured to the wood-work so that it cannot be removed till the rivet or the wood-work is cut away or broken.

When all the frames are in place a continuous metallic frontage protecting the wood-work is presented upon the outside of the series of boxes—that is, the side where the public can approach the boxes.

Each door has a lock attached to it, the bolt of which is actuated through the intervention of an arm, *k*, in the manner and for the

purposes set forth in a patent granted for the invention of Linus Yale, Jr., on the 24th day of October, 1871, No. 120,177.

[We do not claim] is not claimed as of Yale's invention an iron door in an iron frame, as such doors have been used in safe vaults and for furnaces.

What is claimed as the invention of said Linus Yale, Jr., deceased, is—

First. The combination, substantially as specified, of a series of metallic door frames and doors with a series of wooden pigeon holes, whereby a series of post-office boxes with a continuous metallic frontage is formed.

Second. The combination, substantially as described, of a series of wooden pigeon holes with a series of metallic door frames and doors, and with rivets or bolts which attach the frames to the wood-work, whereby a continuous metallic frontage secured to the wood-work of pigeon holes is obtained.

505

Third. The combination, substantially as described, of a series of wooden pigeon holes with a series of metallic door frames and doors, and with rivets or bolts which attach the frames both to the wood-work and to each other, the combination being substantially such as described.

Fourth. The combination of a metallic door with a glass panel and with a frame to which the door is hinged, said frame being so constructed as to cover a part of the ends of the wooden partitions forming pigeon holes and being applied thereto, the combination being substantially as specified.

Fifth. The combination of a post-office box or pigeon hole open at the rear, with a metallic frame and door to protect the front end of it.

In testimony that the said company claims the foregoing [we] it hereunto affixes [our] its hand and seal this 14th day of May, A. D. 1879.

THE YALE LOCK MANUFACTURING COMPANY,
[L. S.] By HENRY R. TOWNE, *President.*

Witnesses:
SCHUYLER MERRITT.
FRANKLIN UNDERHILL.

STATE OF CONNECTICUT, *County of Fairfield*, } ss:

Henry R. Towne, president of the Yale Lock Manufacturing Company, the within named petitioner, being duly sworn, doth depose and say that he verily believes that by reason of an insufficient or defective specification the aforesaid letters patent granted to petitioner are inoperative and invalid; that the said error has arisen by inadvertence, accident, or mistake, and without any fraudulent or

NOTE.—Matter enclosed in brackets stricken out in original.

deceptive intention, to the best of his knowledge or belief;
506 that the entire interest in said letters patent is vested in petitioner; that he verily believes the said Linus Yale, Jr., to be the original and first inventor of the invention set forth and claimed in the foregoing amended specification, and that the said Linus Yale, Jr., is now deceased.

HENRY R. TOWNE.

Sworn to and subscribed before me this 14th day of May, 1879.
[L. S.] SCHUYLER MERRITT,
Notary Public for Connecticut.

(Endorsed:) Reissue application. The Yale Lock Manufacturing Company. "Post office box." Patent Office U. S., May 23, 1879.

THE UNITED STATES PATENT OFFICE.

To all persons to whom these presents shall come, Greeting:

This is to certify that careful search has been made of the digest of this office, and no assignment, agreement, license, power of attorney, or other instrument of writing is found of record under or relating to reissued letters patent granted to S. N. Brooks, administrater of L. Yale, Jr., deceased, assignor to the Yale Lock Manufacturing Company April 24, 1877, No. 7625, "Post office boxes," since date of the reissue.

In testimony whereof I, W. H. Doolittle, acting Commissioner of Patents, have caused the seal of the Patent Office to be hereunto affixed this twenty-first day of May, in the year of our Lord one thousand eight hundred and seventy-nine, and of the Independence of the United States the one hundred and third.

W. H. DOOLITTLE,
Acting Commissioner.

(Endorsed:) Patent Office U. S., May 24, 1879.

507 To the Commissioner of Patents:

Your petitioner, The Yale Lock Manufacturing Company of Stamford, Connecticut, hereby respectfully represents as follows:

I. On the 1st day of July, 1879, reissued letters patent of the United States were granted to your petitioner, The Yale Lock Manufacturing Company, as assignee, by mesne assignments, of Linus Yale, Jr., for an improvement in post-office boxes, No. 8783, and your petitioners are now the sole and exclusive owners of said letters patent.

II. The circuit court of the United States for the district of Connecticut, by an opinion filed on the 29th day of June, 1880, in a suit therein pending between your petitioners and the Scovill Manufacturing Company, sustained the validity of the said letters patent, except the fourth and fifth claims thereof, which claims the said court stated in said opinion were improperly included in said reissued patent.

III. By order of said court in said suit, dated the 6th day of November, 1880, the said Yale Lock Manufacturing Company has been required to disclaim the fourth and fifth claims of said reissued letters patent for the reasons set forth in said opinion filed June 29, 1880.

IV. Your petitioners further represent that they have, therefore, reason to believe that said fourth and fifth claims were included in said letters patent by mistake, but they allege that said claims were so included and made in said reissue without any fraudulent or deceptive intention, they then verily believing and now believing that said Linus Yale, Jr., was the first and original inventor of the invention described in said fourth and fifth claims.

Your petitioners, therefore, for the purpose of complying with the requirements of law and with the said order of said court, do hereby enter their disclaimer to the fourth and fifth claims of said letters patent reissue No. 8783, such claims being those parts of
508 the said inventions of Linus Yale, Jr., patented as aforesaid which your petitioners do not choose to claim or hold by virtue of said reissued letters patent.

Witness the signature and corporate seal of the said Yale Lock Manufacturing Company this eighteenth day of November, 1880.

[L. S.] THE YALE LOCK MANUFACTURING COMPANY,
By HENRY R. TOWNE, *President.*

Witnesses:
E. D. OGDEN, JR.
SCHUYLER MERRITT.

(Endorsed:) Yale Lock Manufacturing Company. Reissue No. 8783. Disclaimer. U. S. Patent Office, Nov. 29, 1880. O. G., Dec. 7, '80.

1879.

Reissue No. 8783.

THE YALE LOCK MANUFACTURING COMPANY, assignee of S. N. Brooks administrator of L. Yale, Jr., deceased, of Stamford, county of —— State of Connecticut.

Post-office boxes.

Received May 23, 1879.
Petition, " " "
Affidavit, " " "
Specification, " " "
Drawing, " " "
Abstract of title, " 24, "
Old patent, reissue No. 7625, April 24, 1877.
Reissue No. 4963, July 9, 1872; No. 119,212, Sept. 19, 1871.
Cert. dep.
1. Cash, $30, May 23, 1879.
Examined June 11, '79. F. L. Freeman.

2. Issue June 12, '79. F. A. Seely.
Patented Sept. 19, 1871.
Reissued July 9, 1872.
509 3. Reissued April 24, 1877.
Reissued July 1, 1879.
Circular June 13, 1879.

Baldwin, Hopkins & Peyton, present.

(Written across face in red ink:) $10 with disclaimer filed November 29, 1880.

UNITED STATES PATENT OFFICE.

THE YALE LOCK MANUFACTURING COMPANY OF STAMFORD, CONNECTICUT, assignee of S. N. BROOKS, administrator of L. YALE, Jr., (Deceased).

Improvement in Post-Office Boxes.

Specification forming part of Letters Patent No. 119,212, dated September 19, 1871; Reissue No. 4963, dated July 9, 1872; Reissue No. 7625, dated April 24, 1877; Reissue No. 8783, dated July 1, 1879; application filed May 23, 1879.

To all whom it may concern:

Be it known that Linus Yale, Jr. (deceased), late of Shelburne Falls, in the county of Franklin and State of Massachusetts, during his lifetime invented a new and useful improvement in post-office boxes; and the Yale Lock Manufacturing Company, assignee of the entire right and title to said invention, does, by its president, hereby declare that the following is a full, clear, and exact description thereof, sufficient to enable others skilled in the arts to understand, make, and use the same, reference being had to the accompanying drawings forming part of this specification, in which—

Figure 1 is an elevation taken from the front or delivery side of a series of boxes. Fig. 2 is a vertical section through the same, and Fig. 3 is a front elevation of a single box frame with the door open.

This invention consists in an improvement in the construc-
510 tion of post-office boxes, and its chief feature is the combination of a tier of pigeon holes made of wood with a continuous frontage of metal, such frontage consisting of doors and their frames, which latter cover the ends of the boards which form the pigeon holes. A series of wooden pigeon holes open at the rear and covered at the front or on the outside by a permanent glass front is very old, and such a series was used for post-office boxes and in hotels as a receptacle for keys, cards, letters, &c. There has also been in use a series of wooden pigeon holes, each provided at one end with a door, as described in the patent granted to Jacob H. Biedler May 28, 1866; but in this patent the door is described as hinged to the wood, and the construction is consequently insecure, as an ordinary pocket knife or small chisel will, even in inexperienced hands, suffice to cut away the wood or pry off the door, so that the boxes may be entered.

Pigeon holes made of iron or other metal are difficult to construct and very costly, but such pigeon holes, each provided with an ordinary metal door, would be sufficiently secure. Such a degree of security at comparatively a low cost is attained by covering the front of a series of wooden pigeon holes with a continuous metallic frontage—that is, a frontage which presents a continuous surface of metal, or, in other words, a surface which covers the ends of the wooden pigeon holes in such manner that those portions of the wood to which the metallic frames are attached cannot be attacked when the doors making part of the frontage are closed. In constructing Yale's invention the body of the boxes or the series of pigeon holes is to be made of wood in any usual manner, and the fronts thereof, viz., the doors and their frames, are to be made of iron or other suitable metal.

Each door frame is of such size that it aids in covering the ends of the wooden partitions that form the pigeon holes to which it is applied, and these frames (see Fig. 1) are of such size and shape that where a series of them are combined with a series of pigeon holes they cover the whole of the ends of the wood.

Each door frame is a plate of metal, *a a*, which, when in place, overlaps a part of the ends of the wood-work surrounding the pigeon hole, the outside of the frame inclosing a greater area than the orifice
511 of the pigeon hole, and each frame has an ear, *b b*, which enters the pigeon hole; but this ear may be either continuous or notched out at intervals. The door is of iron or other metal, solid at top, and having an opening, *e*, below, in which a plate of glass is secured, and is hinged to the frame, as at *c c*. It is preferable to locate rods *f f* behind the plate, so as to prevent the introduction of a hand if the glass be broken, and so to form and hinge the door that when shut it enters within the frame, so that it cannot be lifted from its hinges when shut.

When the frames are all in place each frame is riveted or bolted to the wood-work to fasten it thereto, and is also riveted or bolted to its four neighbors to secure the frames to each other (see *h h*, Fig. 2). Thus each frame is secured to the wood-work, so that it cannot be removed till the rivet or the wood-work is cut away or broken.

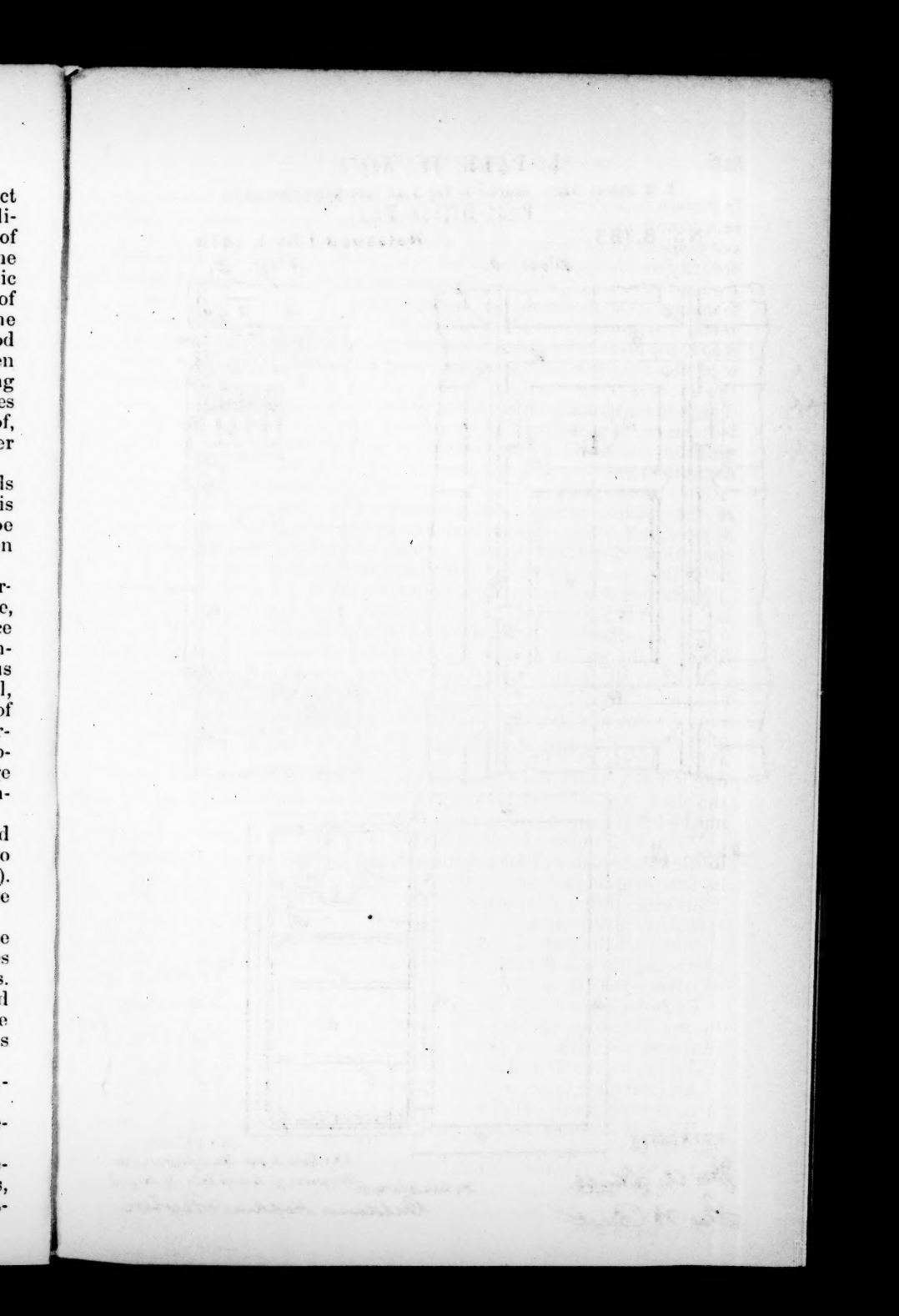
When all the frames are in place a continuous metallic frontage protecting the wood-work is presented upon the outside of the series of boxes—that is, the side where the public can approach the boxes.

Each door has a lock attached to it, the bolt of which is actuated through the intervention of an arm, *k*, in the manner and for the purposes set forth in a patent granted for the invention of Linus Yale, Jr., on the 24th day of October, 1871, No. 120,177.

An iron door in an iron frame is not claimed as of Yale's invention, as such doors have been used in safe vaults and for furnaces.

What is claimed as the invention of said Linus Yale, Jr. (deceased), is—

1. The combination, substantially as specified, of a series of metallic door frames and doors with a series of wooden pigeon holes, whereby a series of post-office boxes with a continuous metallic frontage is formed.



L. YALE, Jr., dec'd.

S. N. BROOKS, Adm'r, Assignor to THE YALE LOCK MANUFACTURING CO.

Post-Office Box.

No. 8,783. Reissued July 1, 1879.

Fig. 1.

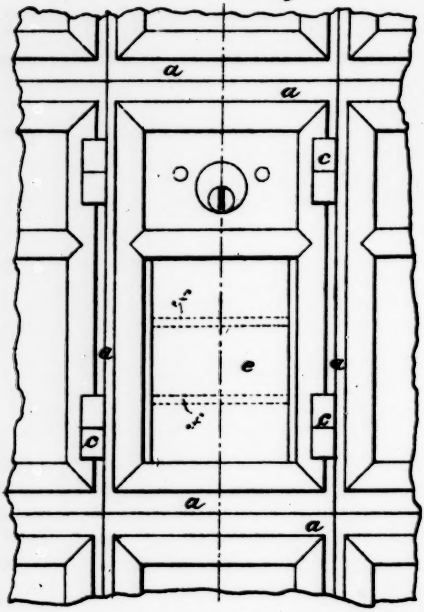


Fig. 2.

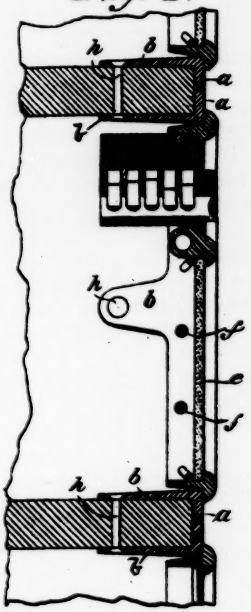
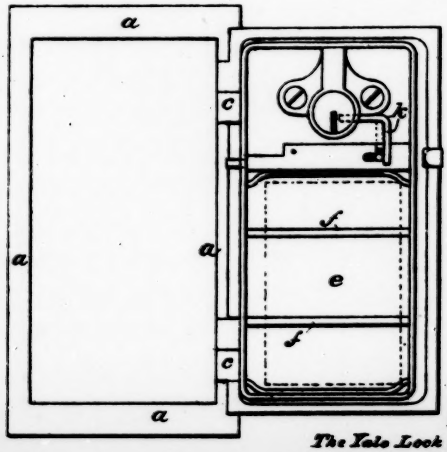


Fig. 3.



No. 162 Yale Lock Mfg Co James

WITNESSES

Wm A. Skeath.

Geo W Breck

INVENTOR

The Yale Lock Manufacturing Co Assignees of Linus Yale Jr deceased

By their Attorneys.

Baldwin Hopkins & Peyton

2. The combination, substantially as described, of a series of
512 wooden pigeon holes with a series of metallic door frames and doors, and with rivets or bolts which attach the frames to the wood-work, whereby a continuous metallic frontage secured to the wood-work of pigeon holes is obtained.

3. The combination, substantially as described, of a series of wooden pigeon holes with a series of metallic door frames and doors, and with rivets or bolts which attach the frames both to the wood-work and to each other, the combination being substantially such as described.

4. The combination of a metallic door with a glass panel and with a frame to which the door is hinged, said frame being so constructed as to cover a part of the ends of the wooden partitions forming pigeon holes and being applied thereto, the combination being substantially as specified.

5. The combination of a post-office box or pigeon hole, open at the rear, with a metallic frame and door to protect the front end of it.

In testimony that the said company claims the foregoing it hereunto affixes its hand and seal this 14th day of May, A. D. 1879.

[L. S.] THE YALE LOCK MANUFACTURING COMPANY,
By HENRY R. TOWNE, *President.*

Witnesess:
SCHUYLER MERRITT,
FRANKLIN UNDERHILL.

(Here follows diagram marked p. 513.)

514 1879.

Contents.

Application papers.

1.
2.
3.
4.
5.
6.
7.
8.
9.
10.
11.
12.
13.
14.
15.
16.
17.
18.

Title: Improvement in post-office boxes.
Ex.: M. McK., J. A. W.

(Endorsed:) F. W. Reissue, 1879.

515 DEFENDANT'S EXHIBIT DAVIS PATENT. J. A. S., Ex'r.

THE YALE LOCK MANUFACTURING COMPANY

vs.

THOMAS L. JAMES.

DEPARTMENT OF THE INTERIOR,
UNITED STATES PATENT OFFICE.

To all persons to whom these presents shall come, Greeting:

This is to certify that the annexed is a true copy from the records of this office of the letters patent granted Asahel Davis October 8, 1867, No. 69637, for device, for advertising.

In testimony whereof I, E. M. Marble, Commissioner of Patents, have caused the seal of the Patent Office to be hereunto affixed this twenty-seventh day of May, in the year of our Lord one thousand eight hundred and eighty-one, and of the Independence of the United States the one hundred and fifth.

[SEAL.] E. M. MARBLE,
Commissioner.

516 No. 69637.

The United States of America to all to whom these letters patent shall come:

Whereas Asahel Davis, of Lowell, Massachusetts, has alleged that he has invented a new and useful device for advertising, which he states has not been known or used before such invention; has made oath that he is a citizen of the United States; that he does verily believe that he is the original and first inventor or discoverer of the said invention, and that the same hath not, to the best of his knowledge and belief, been previously known or used; has paid into the Treasury of the United States the sum of thirty-five dollars, and presented a petition to the Commissioner of Patents praying that a patent may be issued therefor:

These are, therefore, to grant, according to law, to the said Ashael Davis, his heirs, administrators, or assigns, for the term of seventeen years from the eighth day of October, one thousand eight hundred and sixty-seven, the full and exclusive right and liberty of making, constructing, using, and vending to others to be used, the said invention, a description whereof is given in the schedule hereunto annexed and made a part of these presents.

In testimony whereof I have caused these letters patent and the seal of the Patent Office to be hereunto affixed.

Given under my hand, at the city of Washington, this eighth day of October, in the year of our Lord one thousand eight hundred and

sixty-seven, and of the Independence of the United States of America the ninety-second.

[SEAL.]

W. T. OTTO,
Acting Secretary of the Interior.

Countersigned and sealed with the seal of the Patent Office.

A. M. STOUT,
Acting Commissioner of Patents.

517 *The Schedule Referred to in these Letters Patent and Making Part of the Same.*

To all whom it may concern:

Be it known that I, Asahel Davis, of Lowell, in the county of Middlesex and State of Massachusetts, have invented a new and improved method for the exchange of local business intelligence, and I do hereby declare that the following is a full and exact description of the same, reference being had to the annexed drawings and to the letters marked thereon.

The nature of my invention consists in making a case of drawers to be placed in places of general resort, the drawers to be hired out to different individuals. In the front of each drawer there is a place to insert a card, on which is written the want or wants of the proprietor of the drawer. There is also a slit in front of the drawer through which any one may drop in a written reply. The case may be made with pigeon holes with doors to lock instead of drawers if found more convenient.

To enable others to make and use my invention I will now proceed to describe its construction. I make a case with any desirable number of drawers or pigeon holes, each drawer being separated from the others with a lock and a key numbered to correspond with its lock.

By reference to the annexed drawings it will be seen that A A A represent the front, side, and top of the case or frame for the drawers, the drawers being numbered 1, 2, 3, and 4. I make the front of the drawers with an iron frame or moulding, E. In this moulding or frame there is a plate of glass, B. Behind this glass there is placed the wire *e*, shown by the dotted red lines, the ends of which are inserted in the sides of the drawer inside of the glass between that and the wire *e*. When the drawer is opened is placed the card of the proprietor of the drawer, on which is written his wants, as shown in the drawings.

The glass is of less height than the opening in the iron frame, extending only up to the line C, leaving the aperture or slit D, through which cards or replies in writing may be dropped into the drawer.

518 *Claim.*

What I claim as my invention, and desire to secure by letters patent, is making a case of drawers or pigeon holes with a place in the

front of each drawer for a card, showing the wants of the proprietor, with a drawer or pigeon hole receptacle back for the reception of replies, when constructed substantially as described.

ASAHEL DAVIS.

Witnesses:
NATHANIEL HILL, JR.
ELLA F. EMERSON.
PHIL. Y. DAVIS.

Ex'd: E. A. M., H. M. H.

(Here follows diagram marked p. 519.)

520 DEFENDANT'S EXHIBIT FORT WAYNE STIPULATION. J. A. S., Ex'r.

Circuit Court of the United States for the Southern District of New York.

YALE LOCK MANUFACTURING COMPANY *vs.* THOMAS L. JAMES.

It is hereby stipulated and agreed that from 1861 to the present time, at the post office at Fort Wayne, Indiana, there have been publicly known a large number—about 300—post-office letter boxes, arranged in vertical and horizontal tiers or series, open at the rear and severally closed at the front by a hinge door controlled by a lock, and that during that time said boxes have been used and rented in the same proportion as post-office boxes are ordinarily rented—*i. e.*, at least three-quarters.

A particular description of the construction of said boxes is as follows:

The upright and horizontal partitions are made of poplar wood of one-half an inch thickness. At the front the horizontal partitions project seven-sixteenths of an inch—or the thickness of the doors—beyond the upright partitions.

Each box or pigeon hole is two and five-eighths inches high and four and one-half inches wide.

The door of each box is made of black walnut wood. It is hinged to the under side of the horizontal partition, which forms the top of the box. The bottom of the door opposite the hinge is slightly beveled, and the horizontal partition which forms the floor of the box is correspondingly beveled, so that when the door is closed a tight fit is obtained. In opening, the door swings upwards. In closing,
521 it swings down against the beveled edge of the bottom partition and against the ends of the side or vertical partitions, which do not project so far as the horizontal partitions by the thickness of the door.

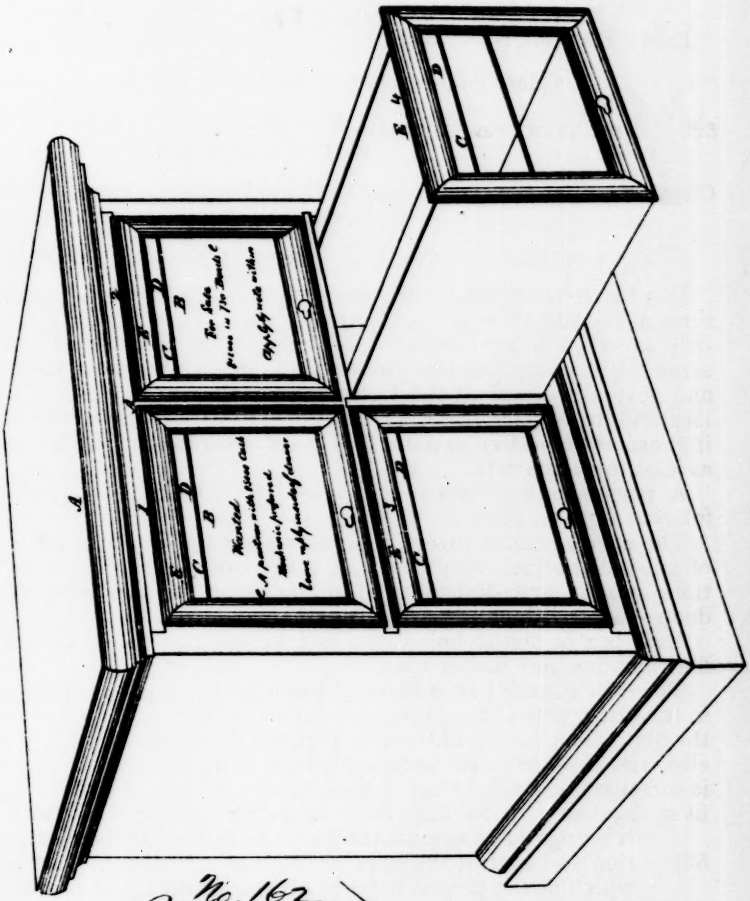
An ordinary drawer lock is fastened to the back of the door. Its bolt works into a mortise in the bottom or floor partition.

When the doors of said letter boxes are closed no portion of the wood of the upright partitions is visible from the outside, the doors, with the ends of the horizontal partitions, forming a smooth, continuous surface.

A. Davis.

Device for Advertising.

No 69637. Patented Oct 8. 1867.



No. 162
Yale Lock
Mfg. Co
p. 519
to
James

Witnesses:

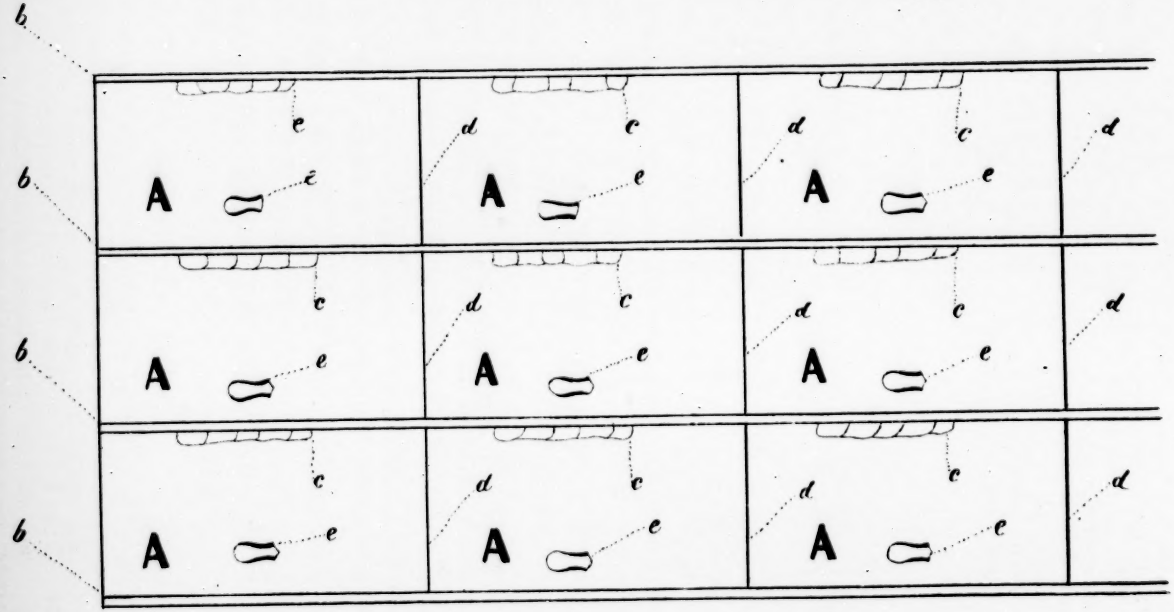
Michael Hall Jr
Wm. P. Dewees

Inventor:

Abel Davis

No. 162
Yale Lock
Mfg. Co.
v.
James

p. 522



The letter boxes arranged as above described have never been rifled of their contents.

Attached hereto, marked in ink "Ft. Wayne" and in yellow paint "310," is a door and hinge taken from one of said boxes.

The annexed drawing illustrates the external appearance of said boxes when the doors are closed, A A being the doors; B B the horizontal partitions; C C being the hinges; D D the line formed by the meeting of the adjacent sides of doors; E E being the key-holes.

No metal-front boxes have ever been introduced in said post office.

New York, June 16, 1882.

BETTS, ATTERBURY & BETTS,
Compl't's Sol'rs.
S. L. WOODFORD, *U. S. Att'y, for Def't.*

(Endorsed:) Circuit court U. S., so. dist. N. Y. Yale Lock M'f'g Co. *vs.* Thomas L. James. Stipulation F. Wayne post office. June 16th, 1882. S. L. Woodford, U. S. att'y, for def't.

(Here follows diagram marked p. 522.)

523 DEFENDANT'S EXHIBIT BURT LETTER No. 1. J. A. S., Ex'r.

THE YALE LOCK MANUFACTURING COMPANY

vs.

THOMAS L. JAMES.

POST OFFICE DEPARTMENT,
WASHINGTON, D. C., *May* 9, 1882.

I, Timothy O. Howe, Postmaster General of the United States of America, certify that the annexed is a true copy of the original letter on file in the office of the First Assistant Postmaster General in this Department.

In testimony whereof I have hereto set my hand and caused the seal of the Post Office Department to be affixed, at the city of Washington, the day and year above written.

[SEAL.] T. O. HOWE,
Postmaster General.

(Copy.)

WM. L. BURT,
Postmaster.

POST OFFICE, BOSTON, MASS., *Feb'y* 8, 1868.

To the First Assistant Postmaster General, Washington, D. C.

SIR: I observe your directions, in letter of February 6, to avoid the use of any letter box which would involve litigation.
524 This I will do most certainly; and, further, will, if I make any changes in my boxes, use none about which there is any dispute; rather than do this I should transfer the old letter boxes. When I hear from Mr. Taylor in answer to your communication to

him I will communicate with him directly and secure his free consent to the use of any box adopted for this office.

I am, sir, yours very respectfuly,

WM. L. BURT,
Postmaster.

525 DEFENDANT'S EXHIBIT BURT LETTER NO. 2. J. A. S., Ex'r.

THE YALE LOCK MANUFACTURING COMPANY

vs.

THOMAS L. JAMES.

POST OFFICE DEPARTMENT,
WASHINGTON, D. C., *May* 9, 1882.

I, Timothy O. Howe, Postmaster General of the United States of America, certify that the annexed is a true copy of the original letter on file in the office of the First Assistant Postmaster General in this Department.

In testimony whereof I have hereto set my hand and caused the seal of the Post Office Department to be affixed, at the city of Washington, the day and year above written.

[SEAL.] T. O. HOWE,
Postmaster General.

Wm. L. Burt, postmaster.

POST OFFICE, BOSTON, MASS., *June* 1, 1868.

To the First Assistant Postmaster General, Washington, D. C.

SIR: I have so far completed the new boxes and drawers for my office that I can calculate safely on having them ready for occupancy the first day of the coming quarter, July 1. The locks with
526 four keys and the fittings cost me $4.00 (four dollars) each. I wish to charge this directly to the owners of the box. In doing this I wish to give no additional encouragement to the use of boxes in my office. The better way, on mature reflection, appears as follows, namely: Charge the $4 for locks and keys, $1.00 upon each quarter for the year, and, after the locks are thus paid for, keep the increased rate permanently upon the boxes; in other words, all parties who now pay $2.00 per quarter shall pay $3.00 per quarter, and those who now pay $3.00 per quarter shall pay $4.00 per quarter. This, after paying for the locks, &c., will give a permanently increased revenue from the boxes, or the parties will give them up and receive their letters by carrier. I should like to have authority to charge $1.00 additional for each quarter for each box to cover this expense, making it a separate item, and giving a separate receipt for the additional charge for four quarters. It will be better than to charge the $4.00 outright and leave the box rents as they now are.

The new boxes will enable me at once to reduce my box clerks, as no clerk will be required to deliver, but only to place the matter in

the boxes, and the corridor being open night and day people can have their boxes at their offices or their houses or in the corridor, in either case delivering to themselves their own mail matter after we have once placed it properly in the box.

If the Department prefer that I should charge the $4 outright for the box and keys, then, I think, we must adhere to our original arrangement of not increasing the box rents, which are now $8.00 for boxes and $12 for drawers per annum.

I am, yours respectfully,

(Signed) WM. L. BURT,
Postmaster.

527 DEFENDANT'S EXHIBIT BURT LETTER NO. 3. J. A. S., Ex'r.

THE YALE LOCK MANUFACTURING COMPANY
vs.
THOMAS L. JAMES.

POST OFFICE DEPARTMENT,
WASHINGTON, D. C., *May* 9, 1882.

I, Timothy O. Howe, Postmaster General of the United States of America, certify that the annexed is a true copy of the original letter on file in the office of the First Assistant Postmaster General in this Department.

In testimony whereof I have hereto set my hand and caused the seal of the Post Office Department to be affixed, at the city of Washington, the day and year above written.

T. O. HOWE,
Postmaster General.

William L. Burt, postmaster.

POST OFFICE, BOSTON, MASS., *June* 9, 1868.

To the First Assistant Postmaster General, Washington, D. C.

SIR: Can I get your views in reference to the letter I wrote you regarding my new boxes in season to change next quarter?
528 If you have any doubt, I prefer seeing you before definite instructions are given.

Your instructions concerning pamphlets received, and, I think, will prove satisfactory.

I am, sir, yours very respectfully,

(Signed) WM. L. BURT,
Postmaster.

529 DEFENDANT'S EXHIBIT BROOKS' ASSIGNMENT NO. 1. L. C. W., U. S. Commissioner, May 9th, 1882.

DEPARTMENT OF THE INTERIOR,
UNITED STATES PATENT OFFICE.

To all persons to whom these presents shall come, Greeting:

This is to certify that the annexed is a true copy from the records of this office of an assignment from S. M. Brooks, as administrator,

to Yale Lock Manufacturing Company, recorded in Liber D 19, page 80, and that said annexed copy has been compared by me with the original, and that it is a correct transcript thereof and of the whole of said original.

In testimony whereof I, E. M. Marble, Commissioner of Patents, have caused the seal of the Patent Office to be affixed this twenty-first day of March, in the year of our Lord one thousand eight hundred and eighty-one, and of the Independence of the United States the one hundred and fifth.

[SEAL.] E. M. MARBLE,
Commissioner.

Liber D 19, page 80.

Whereas the several letters patent of the United States hereinafter recited were granted to Linus Yale, Jr., to wit:

On the 6th day of May, 1851, and numbered 8071.

On the 19th day of October, 1852, and numbered 9350.

On the 21st day of December, 1852, and numbered 9497.

On the 12th day of July, 1853, and numbered 9850.

On the 3d day of June, 1856, and numbered 15031.

On the 9th day of November, 1858, and numbered 22048, and extended November, 1872, for the further term of seven years.

On the 12th day of June, 1860, and numbered 28710.

On the 29th day of January, 1861, and numbered 31278.

530 On the 14th day of May, 1861, and numbered 32330, and reissued April 28th, 1863, and numbered 1469.

On the 14th day of May, 1861, and numbered 32331, and reissued April 28th, 1863, and numbered 1470.

On the 27th day of June, 1865, and numbered 48475–48476.

On the 6th day of February, 1866, and numbered 52484.

On the 19th day of November, 1867, and numbered 71110.

On the 15th day of September, 1868, and numbered 82192.

On the 12th day of October, 1869, and numbered 95865.

On the 4th day of January, 1870, and numbered 98536, the two last granted to Silas N. Brooks, administrator of said Linus Yale, Jr.; on the 19th day of September, 1871, numbered 119,212, granted to said Brooks, as administrator, and reissued July 9th, 1872, and on the 25th day of October, 1871, and numbered 120,177, granted to said Brooks, as administrator as aforesaid; and whereas the Yale Lock Manufacturing Company, a corporation existing under the laws of the State of Connecticut, and located at Stamford, in the county of Fairfield, in said State, has purchased all the right, title, and interest of said Linus Yale, Jr., and of his estate and of said administrator in and to each and all of said patents; and whereas said Linus Yale, Junior, is now deceased, and Silas N. Brooks aforesaid has been duly appointed the administrator upon the estate of said Linus Yale, Jr., has duly qualified as such, and is authorized as such to execute this instrument:

Now, therefore, know all men by these presents that, in consideration of one dollar to me in hand paid and other valuable considerations me thereto moving, the receipt of which is hereby acknowledged,

I do hereby sell and assign to the said Yale Lock Manufacturing Company all my right, title, and interest in and to the aforesaid letters patent of the United States and reissues thereof, and all the right, title, and interest of said Linus Yale, Jr., and of his said estate therein:

The same to be held and enjoyed by the said Yale Lock Manufacturing Company, its successors and assigns, to the full end of the terms for which said letters and reissues are severally
531 granted as fully and entirely as the same would have been held and enjoyed by me if this assignment and sale had not been made.

Witness my hand this seventeenth day of February, A. D. 1875.

SILAS N. BROOKS,
Adm'r Es. L. Yale, Jr.

In presence of—
H. G. BROOKS.

Recorded March 29th, 1875.
Ex'd: C. F., C. L. L.
E. O. M.
Opened and filed, by consent of counsel for respective parties, this 26th day of July, A. D. 1882.

532 DEFENDANT'S EXHIBIT BROOKS' ASSIGNMENT No. 2. L. C. W., U. S. Commissioner, May 9, 1882.

DEPARTMENT OF THE INTERIOR,
UNITED STATES PATENT OFFICE.

To all persons to whom these presents shall come, Greeting:

This is to certify that the annexed is a true copy from the records of this office of an assignment from S. N. Brooks, as administrator, to the Yale Lock Manufacturing Company, recorded in Liber A 21, page 122, and that said annexed copy has been compared by me with the original, and that it is a correct transcript thereof and of the whole of said original.

In testimony whereof I, E. M. Marble, Commissioner of Patents, have caused the seal of the Patent Office to be hereunto affixed this twenty-first day of March, in the year of our Lord one thousand eight hundred and eighty-one, and of the Independence of the United States the one hundred and fifth.

[SEAL.] E. M. MARBLE,
Commissioner.

Liber A 421, page 122.

Whereas Silas N. Brooks, of Chicago, Illinois, administrator of the estate of Linus Yale, Jr., deceased, did obtain letters patent of the United States for improvement in post-office letter boxes, which letters patent are numbered 119,212 and bear date the 19th day of September, in the year one thousand eight hundred and seventy-one; and whereas the said patent was reissued July 9, 1872, and

numbered 4963; and whereas the Yale Lock Manufacturing Company of Stamford, Connecticut, is desirous of acquiring the entire interest in the same:

Now, therefore, to all whom it may concern, be it known that for and in consideration of the sum of two dollars, to him in hand paid, the receipt of which is hereby acknowledged, he, the
533 said Silas N. Brooks, administrator as aforesaid, has sold, assigned, transferred, and set over, and by these presents does sell, assign, transfer, and set over, unto the said The Yale Lock Manufacturing Company all the right, title, and interest whatsoever which he has in and to the said invention or improvement and in and to the letters patent therefor aforesaid, the same to be held and enjoyed by the said The Yale Lock Manufacturing Company for its own use and behoof and for the use and behoof of its successors and legal representatives to the full end of the term for which said letters patent are or may be granted, as fully and entirely as the same would have been held and enjoyed by him had this assignment and sale not been made.

In testimony whereof he has hereunto set his hand and affixed his seal this ninth day of October, A. D. 1876.

SILAS N. BROOKS, [SEAL.]
Adm'r of the Estate of Linus Yale, Jr., Deceased.

In presence of—
JAMES ANDREWS.
JAMES H. MUCE.

Recorded October 13, 1876.
Ex'd: C. F., E. L. L.
Opened and filed, by consent of counsel for respective parties, this 26th day of July, A. D. 1882.

534 DEFENDANT'S EXHIBIT ABSTRACT OF TITLE. L. C. W., U. S. Commissioner. May 19, 1882.

UNITED STATES PATENT OFFICE.

To all persons to whom these presents shall come, Greeting:

This is to certify that the annexed is a true copy from the digest of this office of all assignments, agreements, licenses, powers of attorney, and other instruments of writing found of record, up to and including March 7, 1881, under or relating to letters patent granted to Silas N. Brooks, administrator of Linus Yale, Jr., deceased, September 19, 1871, No. 119,212, and reissued July 9, 1872, No. 4963, and assignor to the Yale Lock Manufacturing Company, April 24, 1877, No. 7625, and July 1, 1879, No. 8783, "post-office letter-box."

In testimony whereof I, E. M. Marble, Commissioner of Patents, have caused the seal of the Patent Office to be hereunto affixed this fifteenth day of March, in the year of our Lord one thousand eight hundred and eighty-one, and of the Independence of the United States the one hundred and fifth.

[SEAL.] E. M. MARBLE,
Commissioner.

535 Assignors.	Assignees.	Date of assignment.	Date of record.	Invention.	Territory assigned.	Liber.	Page.
Silas N. Brooks, adm'r of estate of L. Yale, Jr.	The Yale Lock Manufacturing Company.	Feb. 17, '75	March 29, '75 Reissued	Post-office letter box, Sept. 19, '71, No. 119,212. July 9, '72, No. 4963, and other patents.	All his right in said patents and reissues and all the right of the estate of said Yale.	D 19	80
Same	Same	Oct. 9, '76	Oct. 13, '76 Reissued	Letter boxes, Sept. 19, '71, No. 119,212. July 9, '72, No. 4963.	All his right and interest in said invention and letters patent therefor to the full end of the term for which said letters patent are or may be granted.	A 21	122

Opened and filed by consent of counsel for respective parties this 26th day of July, A. D. 1882.

536 Circuit Court of the United States for the Southern District of New York.

YALE LOCK MANUFACTURING COMPANY *vs.* THOMAS L. JAMES.

SHIPMAN, *J.:*

This is a bill in equity based upon the alleged infringement of reissued letters patent No. 8783, dated July 1st, 1879, which were issued to the plaintiff, as assignee of Silas N. Brooks, administrator of Linus Yale, Jr., for an improvement in post-office boxes. The original patent was issued to said Brooks, as administrator, on September 19th, 1871, and was reissued three times. The first reissue was applied for May 7th, 1872, and was issued July 9th, 1872; the second was applied for April 19th, 1875, and was issued
537 April 24th, 1877; the third was applied for May 14th, 1879.

The invention was described and the original patent and the third reissue were recited in the opinion which was filed in June, 1880, in the case of the present plaintiff against the Scovill Manufacturing Company. (18 Blatchf. C. C. R., 248; 3 Fed. Rep., 288.)

The first of the two claims of the first reissue was the first claim of the original patent. The second of said claims was as follows: "The combination of two or more metallic frames and doors and locks with pigeon holes, said frames having flanges which protect and enclose wholly or in part the front edges of said pigeon holes."

The defendant, as postmaster in the city of New York and not otherwise, used in the post office provided and equipped for him by the United States Government wooden post-office boxes
538 with metallic fronts and doors and open at the rear. They were manufactured by the Johnson Rotary Lock Company. The doors and door frames made a continuous metallic frontage. The door frames were secured to each other and to the wood-work as follows: At about the middle of each vertical edge of each door frame there was a triangular hole, which, with the corresponding hole in the adjoining door frame, made a rectangular hole, through which the metal fastening bolt, completely filling such hole, was passed, the heads of such bolts overlapping the contiguous edges of adjoining metallic fronts, and the bolt itself passing through the wooden partition between the adjoining pigeon holes and being secured at the back thereof within the post-office room by a nut screwed upon the end of the bolt.

539 There were other boxes constructed substantially as above described, excepting that the metal front of each pigeon hole was fastened to the wood-work by means of flanges and screws, but the screws which attached the frames to the wood-work did not attach the frames to each other.

Neither series of boxes would have infringed either claim of the original patent. Each series infringes the 1st and 2nd claims of the present reissue, unless these claims are to receive a construction which shall compel the metallic frontage to be made continuous by rivets, bolts, or fastenings which shall attach the frames both to the wood-work and to each adjoining frame.

The plaintiff insists that these claims should not receive such a construction, because it has been found that the invention of
540 the specification of the reissue, although a broader one than was described in the original patent, is the invention which the history of the art and the patent show should have been described, and because the first reissue was promptly applied for and, as issued, included in its second claim, in the view of the plaintiff, the same invention which is described in the 1st and 2nd claims of the reissue.

The defendant says, among other things, that since the cases of Brass Co. *v.* Miller (104 U. S., 350) and Campbell *v.* James (104 U. S., 356) it has been settled by the Supreme Court that the Commissioner of Patents, in allowing the 1st and 2nd claims, exceeded his jurisdiction, because the invention which was first applied for and was "complete in itself" was clearly, specifically, and fully described in the original specification and in the claim, and an ex-
541 panded claim would necessarily include an invention which was not sought to be described in the original patent; and, furthermore, that there could have been no inadvert*a*nce or mistake, because the original patent and the accompanying documents show that the patentee "did not intend it (the patent) to embrace any such broad invention" as was described in the reissue. The defendant also says that the patentee, in his application for the first reissue, ineffectually endeavored to alter the description of the invention so as to omit the fastening of the door frames to each other as a necessary integral part of the invention, and that the second claim of the first reissue cannot fairly be construed to permit such omission, and, therefore, that the patentee is estopped from insisting upon a broad construction of the 1st and 2nd claims of the
542 present reissue, and that these claims are objectionable on account of the laches of the patentee. The "file wrapper and contents" of the first reissue were not a part of the record in the Scovill case.

It is unquestionable that the patentee, when he made his original application, intended to say that his invention did not consist simply in making by his combination of metallic doors, door frames, and wooden boxes, a continuous metallic frontage, but that it also consisted in the way in which the frontage was made continuous, viz., by the connection of the adjoining frames with each other. His definite and exact specification shows that he supposed that his patentable invention was thus limited. He described with precision and clearness that his metallic frontage was to be so con-
543 structed that the frames were to be fastened to each other at top, bottom, and sides, and not merely to the wood-work. "A specific invention, complete in itself," was described, "fully and clearly, without ambiguity or obscurity." Under the definitions which are given in the decisions which have been referred to, and in manufacturing Co. *v.* Ladd (102 U. S., 408), of the inadvertence, accident, or mistake which permits a reissue, when a patent is said to be inoperative on account of a defect or insufficiency in the specification which arose through said inadvertence or mistake, and also

of the nature of the defectiveness or insufficiency which is meant by the statute, there was no mistake, although the patentee might have fallen into an error of judgment or into an erroneous
544 conclusion of fact; and, furthermore, the original patent, according to the definitions contained in the recent and perhaps in the earlier cases, was not defective nor insufficient, either in its descriptive portion or in its claims.

The second claim of the first reissue, construed in the light of the cotemporaneous facts which are shown in the "file wrapper and contents," cannot be fairly construed to mean a metallic frontage irrespective of the fastening of the frames to each other through the wood-work. Were this claim to be construed without study of the history of the application as it made its way through the Patent Office and of the amendments which it was compelled to undergo, it would probably receive the construction which naturally belongs to the first claim of the present reissue.

545 But the patentee abandoned, under pressure from the Patent Office, the clauses in the application which made the fastening of the frames to each other to be optional, and abandoned also a proposed third claim, which described the box frames as secured to the pigeon holes "independently of each other by means of screws or other similar fastening." In view of the fact that the Patent Office excluded from the descriptive part of the specification suggestions of any other method of fastening than that by which the frames were to be fastened to each other, it would be singular if the intent of the office was to include in the second claim such other method of construction. If this claim has properly, and the applicant knew that it was intended to have, a narrow construction, and of this
546 knowledge I think there can be little doubt, the plaintiff would not insist that the 1st and 2nd claims of the present reissue ought, in view of the decision in Brass Co. *v.* Miller, *supra*, to be so construed as to be any broader than the third claim, which requires the combination of door frames, doors, and pigeon holes to be by means of rivets or bolts which attach the frames both to the wood-work and to each other.

There is no infringement and the bill is dismissed.

Frederic H. Betts, for the plaintiffs; Samuel B. Clarke, ass't U. S. dist. att'y, and George Andrews, for the defendant.

(Endorsed:) U. S. circuit court, southern district of N. Y. Yale Lock M'f'g Co. *vs.* James. Decision. Shipman, J. U. S. circuit court. Filed July 21, 1884. Timothy Griffith, clerk.

547 Circuit Court of the United States for the Southern District of New York.

THE YALE LOCK MANUFACTURING COMPANY

vs.

THOMAS L. JAMES.

This cause having come on to be heard upon pleadings and proofs, and having been argued by Frederic H. Betts, Esq., for the com-

plainant, and by George Andrews and Samuel B. Clarke, Esqs., for defendant, and the court being of the opinion that the defendant has not infringed the reissued letters patent set out in the bill of complainant, it is ordered, adjudged, and decreed, that the bill of complaint herein be, and the same hereby is, dismissed, with the costs to the defendant to be taxed.

548 (Signed) N. SHIPMAN, *Judge.*

(Endorsed:) U. S. circuit court, So. dist. N. Y. Yale Lock M'f'g Co. *vs.* Thomas L. James. Decree. Elihu Root, U. S. attorney, for def't. U. S. circuit court. Filed Aug. 5, 1884. Timothy Griffith, clerk.

549 And the costs having been taxed by the clerk at six hundred and fifty-one $\frac{85}{100}$ (651\frac{85}{100}$) dollars, the process, pleadings, and decrees, together with other papers filed in said cause, are duly annexed hereunto.

Wherefore let the said Thomas L. James, defendant, recover of said The Yale Lock Manufacturing Company, complainant, the sum of six hundred and fifty-one and $\frac{85}{100}$ ($651.$\frac{85}{100}$) dollars, the cost and charges as taxed.

Signed and enrolled this 19th day of August, A. D. 1884.

(S'g'd) JOHN A. SHIELDS,
Deputy Clerk.

549½ (Endorsed:) United States circuit court, southern district of New York. Yale Lock M'f'g Co. *vs.* James. In equity. Final record. Elihu Root, def't's solicitor. Damages ——. Costs ——. Total 651\frac{85}{100}$. Filed August 9, 1884, 1.45 p. m.

550 Circuit Court of the United States for the Southern District of New York. In Equity.

THE YALE LOCK MANUFACTURING COMPANY

vs.

THOMAS L. JAMES.

We hereby consent that the foregoing papers shall constitute the record to be sent to the United States Supreme Court by the clerk of this court, on the appeal to said Supreme Court in the above-entitled cause, without prejudice to any motion hereafter made at any time to correct, diminish, or enlarge the record.

Dated New York, October 15, 1884.

(S'g'd) BETTS, ATTERBURY & BETTS,
Per HOYT, *Sol's for Compl't.*

(S'g'd) ELIHU ROOT, *U. S. Att'y, for James.*

(Endorsed:) U. S. C. C., S. D. N. Y. Yale Lock M'f'g Co. *vs.* James. Stipulation as to record. U. S. circuit court. Filed Oct. 15, 1884. Timothy Griffith, clerk.

551 Circuit Court of the U. S., Southern District of New York. In Equity.

THE YALE LOCK MANUFACTURING COMPANY

vs.

THOMAS L. JAMES.

It is hereby stipulated that the model exhibits and all other exhibits other than those included in this record may be sent by the clerk of this court to the Supreme Court of the United States on the hearing of the appeal in the above-entitled cause.

Dated New York, October 14, 1884.

(Signed) BETTS, ATTERBURY & BETTS,
Sol's for Compl't.
ELIHU ROOT, *U. S. Att'y, for Def't.*

(Endorsed:) U. S. C. C., S. D. N. Y. The Yale Lock M'f'g Co. *vs.* James. Stipulation as to model exhibits, etc. U. S. circuit court. Filed Oct. 14, 1884. Timothy Griffith, clerk.

552 United States Circuit Court, Southern District of New York.

YALE LOCK MANUFACTURING COMPANY *vs.* THOMAS L. JAMES.

To the honorable the Supreme Court of the United States:

The appeal of the Yale Lock Manufacturing Company, the above-named complainant and appellant, respectfully showeth that upon the 17th day of February, 1881, the above-named complainant filed its bill in the circuit court of the United States against the above-named defendant and respondent to recover for and restrain an infringement of reissued letters patent relating to post-office boxes, dated July 1, 1879, numbered 8783, issued to the complainant, as assignee of Silas N. Brooks, administrator of the estate of Linus Yale, Jr., the inventor, as by said bill of complaint will more fully and at large appear.

553 That upon the 6th day of June, 1881, the above-named defendant filed his answer to said bill of complaint, admitting that the defendant was of the city of New York and United States postmaster in said city; that the letters patent and its reissues were issued by the Patent Office, and that a disclaimer was filed. It alleges that the defendant has no knowledge if Silas N. Brooks was duly appointed administrator of Linus Yale, Jr., or if the administrator made assignment of the letters patent, or if the complainant is a corporation organized as stated in the bill, or if the administrator or the complainant put the alleged invention into use after the issuing of the original and reissued letters patent, or if they performed all the requirements of the law preliminary to the granting of the original and reissued letters patent, or respecting the alleged utility of the invention, or the general acquiescence of the public in complainant's alleged rights, or the gains or profits complain-

554 ant might under certain circumstances have made, or respecting the suits sustaining the patent.

It alleges that the original and reissues that were surrendered were not inoperative or invalid by reason of an insufficient or defective specification, and that the reissued letters patent are not for the same invention as the original, but contain new matter; that there is no invention in the improvement set forth in the reissued letters patent; that the patent and its reissues are illegal, because the invention there patented is not the invention of the patentee solely, but that if there was any invention it was devised, constructed, and invented jointly by Yale and W. C. Burt; that the invention had been previously known to and used by a number of persons, whose names and residences and the places of use are given, and that the same had been patented before Yale's supposed invention.

It further alleges that the heirs-at-law of Linus Yale, Jr., should have been made parties to this suit, and denies that the de-
555 fendant has made or caused to be made, sold or caused to be sold, used or caused to be used, the improvement claimed in reissued letters patent No. 8783, but that the infringement, if any, was by the United States through this defendant as postmaster.

That on the 8th day of June, 1881, the complainant filed its replication in said circuit court, and thereafter proofs on both sides were taken therein.

That on the 24th and 25th days of March, 1884, this cause came on for final hearing upon the pleadings and proofs therein, and was argued by counsel for the respective parties thereto.

That on the 5th day of August, 1884, a decree was entered in the cause, wherein it was adjudged and decreed that the complainant's bill of complaint herein be dismissed and that the complainant pay to the defendant the costs of this suit, to be taxed; that said costs were taxed at six hundred and fifty-one $\frac{85}{100}$ dollars and judgment entered accordingly.

556 Wherefore this appellant appeals from the whole of said decree of the said circuit court of the United States, and respectfully prays that the decree of said circuit court and the bill, answer, pleadings, depositions, evidence, — proceedings in the said cause may be sent to the Supreme Court of the United States without delay, and that the said Supreme Court will proceed to hear the said cause anew, and that the said decree of the circuit court and every part thereof may be reversed and a decree made reversing said decree of the circuit court and granting the prayer of said bill with costs or such other decree as to the said Supreme Court shall seem just.

The above appeal is hereby allowed.

(Signed) N. SHIPMAN, *Judge.*

Due service of the above appeal is hereby admitted.

New York, Sept. 13th, 1884.

(S'g'd) ELIHU ROOT,
U. S. Att'y, for Def't.

(Endorsed:) U. S. circuit court, southern district of New
557 York. Yale Lock Manufacturing Company *vs.* Thomas L. James. Papers on appeal to the Supreme Court. Betts, At-

terbury & Betts, solicitors for compl't, 120 Broadway, New York. U. S. circuit court. Filed Sept. 12, 1884. Timothy Griffith, clerk.

558 *Bond for Damages and Costs.*

Circuit Court of the United States of America for the Southern District of New York, in the Second Circuit.

THE YALE LOCK MANUFACTURING COMPANY

vs.

THOMAS L. JAMES.

Know all men by these presents that we, Henry R. Towne and Thomas F. Keating, are held and firmly bound unto the above-named Thomas L. James in the sum of six hundred and fifty-one $\frac{85}{100}$ ($651.85) dollars, to be paid to the said Thomas L. James; for the payment of which, well and truly to be made, we bind ourselves and each of us, our and each of our heirs, executors, and administrators, jointly and severally, firmly by these presents.

Sealed with our seals and dated the twenty-seventh day of August, in the year of our Lord one thousand eight hundred and eighty-four.

Whereas the above-named Yale Lock Manufacturing Company has prosecuted an appeal to the Supreme Court of the United States to reverse the decree rendered in the above-entitled suit by the judge of the circuit court of the United States for the southern district of New York:

Now, therefore, the condition of this obligation is such that if the above-named company shall prosecute said appeal to effect and answer all damages and costs if said company fail to make its plea good, then this obligation shall be void; otherwise the same shall be and remain in full force and virtue.

THOMAS F. KEATING. [L. S.]
HENRY R TOWNE. [L. S.]

Sealed and delivered and taken and acknowledged this 27th day of August, 1884, before me, as to Thomas F. Keating.

[NOTARIAL SEAL.] (S'g'd) GEORGE F. MARTENS,
Notary Public, New York County.

Sealed and delivered and taken and acknowledged this 28th day of August, 1884, as to Henry R. Towne, before me—

[NOTARIAL SEAL.] E. W. RIKER,
Notary Public, Fairfield Co., Ct.

559 [Endorsed:] Vol. —, page —. U. S. circuit court. —— —— *vs.* —— ——. Bond for costs on —. —— ——, proctor. Filed this — day of ——, 18—.

UNITED STATES OF AMERICA, } ss:
Southern District of New York, }

Thomas F. Keating, being duly sworn, deposes and says that he is a freeholder in the State of New York; that he resides at No. 317 West 23rd St., New York city; that he is worth the sum of thirteen hundred and three $\frac{70}{100}$ dollars over and above all his just debts and liabilities.

(S'g'd) THOS. F. KEATING.

Sworn to this 30th day of August, A. D. 1884, before me—
(S'g'd) TIMOTHY GRIFFITH,
U. S. Commissioner.

Form & surety approved.

G. E. P. HOWARD,
Ass't U. S. Att'y, in Charge.

Bond approved.
(S'g'd) N. SHIPMAN, *Judge.*

(Endorsed:) Filed Sept. 12. 1884.

560 UNITED STATES OF AMERICA, ss:

To Thomas L. James, Greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States to be holden at Washington on the second Monday of October, eighteen hundred and eighty-four, pursuant to an appeal filed in the clerk's office of the circuit court of the United States for the southern district of New York, wherein The Yale Lock Manufacturing Company is the appellant and you are the appellee, to show cause, if any there be, why the decree recited in the said appeal should not be reversed and speedy justice should not be done to the parties in that behalf.

Dated New York, the 6th day of September, 1884.
(S'g'd) N. SHIPMAN,
Acting as One of the Circuit Judges of the United States Circuit Court for the Southern District of New York.

561 Due service of the above citation is hereby admitted.
New York, Sept. 13th, 1884.
(S'g'd) ELIHU ROOT,
U. S. Att'y, for Def't.

(Endorsed:) Filed Sept. 12, 1884. T. G., cl'k.

562 UNITED STATES OF AMERICA, } ss:
Southern District of New York, }

I, Timothy Griffith, clerk of the circuit court of the United States of America for the southern district of New York, in the second circuit, do hereby certify that the foregoing pages, numbered from number one to five hundred & sixty-one, inclusive, contain a true and complete transcript of the record and proceedings had in said

court in the case of The Yale Lock Manufacturing Company against Thomas L. James as the same remain of record and on file in said office.

In witness whereof I have caused the seal of the said court to be hereunto affixed, at the city of New York, in the southern district of New York, in the second circuit, this 16th day of October, in the year of our Lord one thousand eight hundred and eighty-four, and of the Independence of the said United States the one hundred and ninth.

[Seal illegible.]

TIMOTHY GRIFFITH, *Clerk.*

Endorsed on cover: S. New York C. C. U. S. No. 162. The Yale Lock Manufacturing Company, appellant, *vs.* Thomas L. James. Filed 27th October, 1884.

Supreme Court of the United States.

THE YALE LOCK MANUFACTURING COMPANY,
Appellants,

AGAINST

THOMAS L. JAMES,
Respondent.

October Term, 1887.
No. 162.

STATEMENT.

The bill in the present case charges infringement of letters patent for improvements in post-office boxes, originally granted to Silas N. Brooks, as administrator of Linus Yale, Jr., September 19th, 1871, No. 119,212, reissued July 9th, 1872 (on application filed May 7th, 1872), No. 4963, again reissued to the complainant April 24, 1877 (on application filed April 19th, 1875), No. 7625, and again reissued to the complainant July 1st, 1879, No. 8783.

The bill alleges the sustaining of the reissue No. 7625, in several suits, and of the reissue 8783 in suit against the Scovil Manufacturing Co. (heard before SHIPMAN, J.) (see same, p. 103).

It further alleges the filing of a disclaimer on November 29th, 1880, to the 4th and 5th claims of reissue 8783 (see same, p. 101–2).

It then alleges infringement (p. 10) by the defendant, *as an individual*, of the first three claims, and prays for the usual relief.

The answer of the defendant (p. 9) admits the grant of the original patent and its reissues, but alleges that the reissues are for different inventions from the original patent.

It alleges defective parties, owing to the absence of the heirs at law of Linus Yale, Jr.

Admits the filing of the disclaimer, and alleges that the acts complained of as infringements were done by the defendant as Postmaster of the United States at New York City.

Alleges prior knowledge of the invention by a number of persons named, and prior descriptions in several patents.

Alleges that the invention, if any, was a joint one by Yale and one William L. Burt (Record, pp. 9–14).

Replication was filed (p. 15) and proofs taken for both parties.

The cause was heard by Hon. Nathaniel Shipman, and an opinion rendered (p. 324) dismissing the bill on the ground that, in view of the original patent, and of its final reissue that the claims of the reissue were invalid unless they were to be so narrowly construed that the structure used by the defendant was not an infringement.

From this decree an appeal was taken (p. 328) to this Court.

Assignments of Errors.

1. The Court below erred in deciding that the defendant's post-office boxes did not infringe the claims, or one of the claims, of the original patent.

2. The Court below erred in deciding that the post-office boxes of the defendant did not infringe the second claim (if not the first) of the reissue No. 4963, of July 9th, 1872.

3. The Court below erred in not holding that the original patent if construed so strictly as to exclude defendant's boxes, was "inoperative" by "inadvertence, accident and mistake," and that the error was corrected in due time by the reissue of July 9th, 1872, which was applied for within seven months from the date of the original.

4. The Court below erred in not holding that the defendant's post-office boxes infringed the second claim of reissue No. 8783.

5. The Court below erred in not holding that the second claim of reissue 8783 was for the invention which included the construction of the defendant's post-office boxes, and was for the same invention as that of the original patent, and of both intermediate reissues.

6. The Court below erred in dismissing the bill on the ground of non-infringement, or for any cause.

7. The Court below erred in not decreeing the reissued Letters Patent in suit valid, as describing and claiming a novel and patentable invention, at least as to second claim thereof, and in not decreeing that the defendant had infringed the same, and in not granting the relief prayed for accordingly.

The Nature and Value of the Invention.

Before considering the questions of law and fact, which arise in connection with the assignments of error, it will be useful to understand clearly the nature of the invention described in the patent in suit.

This same reissue, 8783, was considered by the same Judge (Shipman, J.,) in a suit of this complainant against the Scovil Manufacturing Co. (18 Blatch., 248; 3 F. R., 288).

Judge SHIPMAN's opinion in that case is found at p. 103 of this record.

In that opinion Judge SHIPMAN concisely stated the nature of the invention and the prior state of the art nearly as fully as it has been proved in the present case, and we therefore quote from that opinion.

We do not understand that the views of Judge SHIPMAN have undergone any modification, in his later decision, either in regard to the novelty or patentability of the invention.

He said:

"The post-office boxes which were in use before the date of the "invention were either a series of wooden pigeon holes, each box "having a permanent glass front, or a series of wooden pigeon holes, "each box having a wooden door in front furnished with lock and "key. The contents of the first named kind were inaccessible to "the lessee of the box until he was waited upon by the clerk. The "latter kind was not economical of space and was not considered "safe.

"In May, 1867, General William L. Burt, then postmaster of "Boston, conceived the idea of a series of wood boxes finished "with metallic doors and frames for each box, with the rest of the "wooden front covered or veneered with a contiouous metal casting. "He caused a plan to be prepared of a box in the Boston post-offiee, "which plan clearly showed his idea. A casting of the metallic front "was made from this plan and was delivered to General Burt, and "was sent to the plaintiff to be fitted with doors and locks. This "continuous metallic frame or front was discarded on account of its "actual or supposed impracticability, and in its stead Mr. Yale invent-"ed the improved box front for a series of boxes, which was subse-"quently patented by his administrator, and with which the Boston "post-office was supplied. So far as is disclosed by the evidence, "the Burt box frame was never used in a post-office, and was merely "experimental. It originated the invention, but there is no evidence "which can justify a finding that Burt was the inventor."

* * * * * * * *

"From the history of the art *and the language of the specification* "it appears that the invention consisted in a tier or *series of metal-*"*lic doors and metallic door frames* in combination with a *series of* "*wooden pigeon-holes* for post-office boxes, said series of door frames "being so constructed with relation to the wood-work and so con-"nected with each other that the frames make a continuous front-"age, no part of which can be removed on the outside without "pulling down other parts and breaking the wood-work."

* * * * * * * *

"*The described method* by which the frames were fastened to the "wood-work and were connected with each other was by fitting "the sides of the frames, provided with ears or lugs, closely against "the inside of the pigeon-holes and by riveting each frame through "the ears within the pigeon-holes to the wood-work and to the "four neighboring frames."

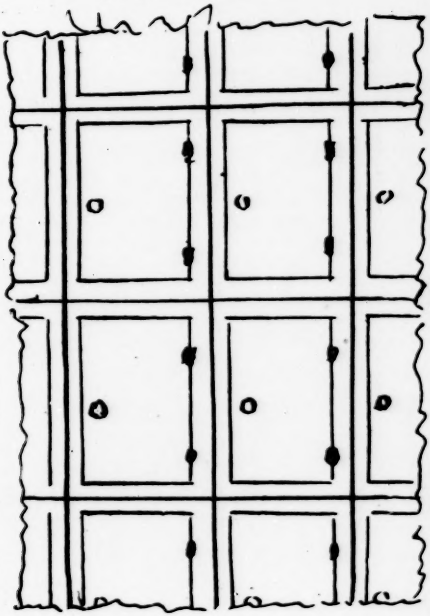
* * * * * * * *

"The invention was not simply an improvement upon metallic "fronts, but Yale *was the first inventor of a practicable metallic front.* "By the patent his invention was limited to a particular method "of construction, or its equivalent, viz.: The frames must be riveted "to each other through the wood-work, so that if a rivet simply "riveted or fastened the frames to the wood-work, without fastening "them to each other (the flanges of the frames being sufficiently wide "to cover the wood-work and in sufficiently close juxtaposition to re- "pel entrance to the box from the outside). *The principle of the "invention would be preserved*, and the substantial advantages would "be retained by a very simple modification of the patented device.

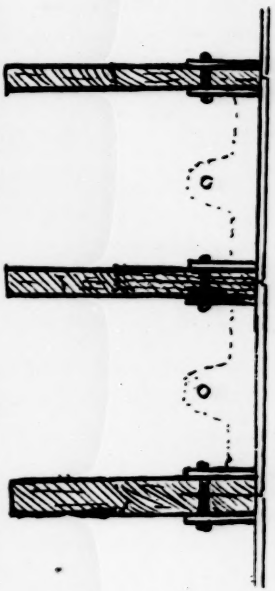
"Instead of a single rivet uniting the adjoining frames to each "other, one or two rivets could be used, either from the inside or "outside of the frame, and though the structure could be more "easily broken, yet practically the frames would be so connected "together by close juxtaposition and tightly-fitting joints that the "substantial advantages of the invention would be retained."

A diagram of a series of Yale lock-boxes, fitted with a continuous metallic front formed by the juxtaposition and union of a series of small metallic fronts for the separate boxes are here shown.

Front view



Cross section



It is almost needless to comment upon the utility of this invention, further than to call attention to Judge SHIPMAN's statement that Yale "was the first inventor of a *practicable* metallic "front," for wooden post-office boxes.

His invention consisted, as distinguished from the making of a solid nest of iron boxes, or of a large and unwieldy front of one piece of metal for a large number of boxes (as suggested by Burt), of the application to the front of a tier of *wooden* boxes of a *series* of small *separate metallic fronts*, one for each wooden box, so formed as to overlap and cover the intervening woodwork, and when fastened in juxtaposition making *a continuous metallic frontage;* a frontage, however, which, though sufficiently safe, yet by reason of the fact that it was made of small separate parts, could be cheaply manufactured, shipped to distant parts of the country compactly and safely, assembled and set up in any desired length, breadth or irregular way so as to meet the requirements of any given space.

We shall have occasion to comment further upon this in discussing the question of the prior state of the art.

The practical utility of the Yale invention is fully evidenced by the history of its introduction.

Introduced in 1868, the sales in the first year amounted to 7,328 (p. 75, Q. 4).

In 1873 they had risen to 17,061 (*Id.*).

In 1883 over 200,000 were sold, in addition to 75,000 boxes made by infringers (*Id.*).

MR. MULLETT, Supervising Architect of the Treasury Department, who was called for the defendant, admitted (p. 190, Q. 55), that the introduction of the metallic front boxes was undoubtedly a great convenience, and productive of economy and space, and resulted in throwing open the lock-box system to the general public (Q. 56½), and limited the number of delivery clerks generally (Q. 57).

Among the conveniences and utilities of the invention may be stated the following:

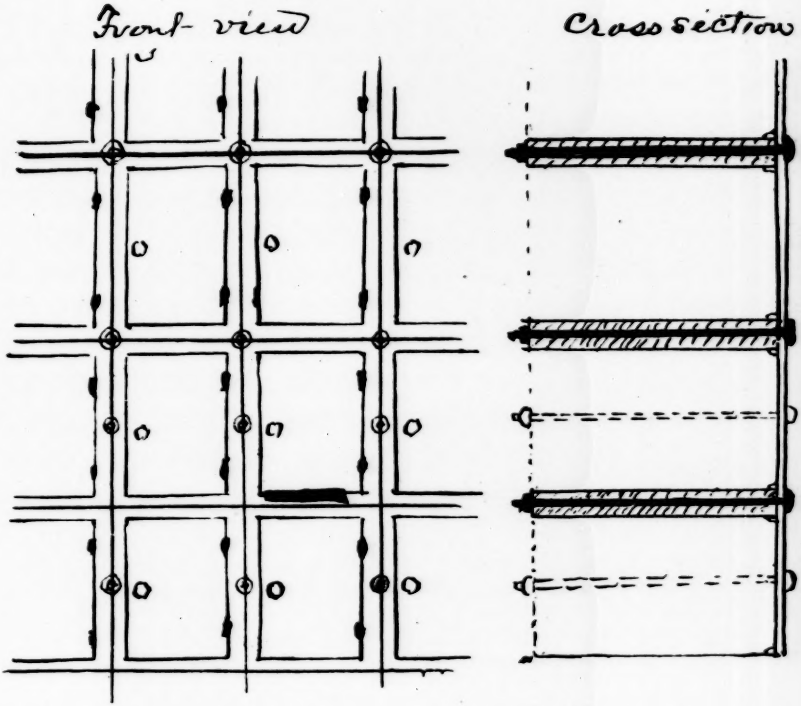
1. It extended the use of the lock-box system.
2. It enabled the lock-box system to be used by the public generally instead of by a limited number of special renters.
3. It economized space in post-offices.
4. It reduced their expenses by diminishing the number of delivery clerks.
5. It provided the first practicable continuous metallic frontage and gave perfect security.
6. It provided a continuous metallic frontage at the lowest price in the most convenient shape, to be shipped to and set up at distant localities, and of the most economical construction.

The Post-Office Boxes of the Defendant.

The series of post-office boxes used by the defendant were supplied by the Johnson Rotary Lock Co., a competitor of complainant, and are not substantially different from those of Yale.

A drawing of the defendant's boxes, arranged in series, is found in the Record opposite p. 97, and a description of the construction is found in stipulation annexed (p. 96).

A similar drawing is here inserted for convenience of reference :


Front- view
Cross section

It will be observed that the defendant's post-office boxes are identical with those of Yale in the following particulars.

There are a series of wooden post-office boxes open at the rear.

Each box has a *separate metallic front* with door, which front fits into the box and by means of flanges overlaps the intervening wood-work, the whole series together, when set up and secured in place, "form a continuous metallic frontage" for the wooden boxes (see stipulation, fol. 161).

The complainants' boxes differ from the defendant's simply in the way in which the metallic fronts are connected to the woodwork and to each other.

In the Yale boxes the adjacent fronts are connected with the wood-work and with each other by bolts or rivets which pass from side to side, through inwardly projecting flanges from the fronts, and through the wood-work.

In the defendant's boxes the connection of the fronts with the wood-work, and with each other, is made by bolts which pass through apertures in the flanges of adjoining fronts, at the corners or in the centre of the sides, and from front to rear through the intervening wood-work between the boxes.

Mr. Merritt, complainant's secretary, is asked (p. 18):

"Q. 9. What effect, if any, different from that produced by the "method of fastening metallic fronts to the pigeon holes described "in complainant's reissued letters patent would be caused by the "method of fastening practiced in the case of the New York post-"office lock boxes, as shown in the models?

"A. *No effect.*"

And again (p. 21, Q. 30):

"As shown in the patent, the frames are bolted to the wood-"work by bolts which pass through the upright partitions on a plane "parallel to the fronts; whereas, in Exhibit No. 1, the bolts pass "through the partition on a frame at right angles to the front, *but* "*this difference I don't regard as material.*"

Hicks, defendant's expert, admits (p. 250, x-Q. 52) that the benefit of the invention of the production of the metallic frontage is *not* "dependent upon the special mode of fastening" the frames; and that the defendant's mode of fastening "did not require or involve invention, as distinguished from mere mechanical skill" (x-Q. 56).

In the Scovill case, Judge SHIPMAN held that the first and second claims of the Yale reissue 8783, were entitled to a construction sufficiently broad to cover a structure less like that of Yale than that of the defendant; but in his later decision, in the present case, he came to the conclusion, that in order to save the reissue, as a valid reissue, he must place upon the same first and second claims certain limitations, which he *thought* he found contained in the original patent, and in the first reissue of July 9, 1872.

In other words, Judge SHIPMAN, in his present decision, held that the claims of the reissue in suit No. 8783 would be invalid, unless

limited to the exact construction described in the original patent, and being of the opinion that the original patent and first reissue (which was taken in due time), did not claim the defendant's structure, he held that the reissue claims must be construed to be restricted by the same limitations in order to preserve them. *

The case, therefore, involves the question as to how far the restrictions upon the power to reissue letters patent, as they have been defined by this Court in recent decisions, are applicable to this case.

The controlling question in this cause will be found to be whether the original patent, by an unfortunate use of phraseology, so limited the inventor's claim to less than his real invention that the defendant can escape by using so obvious a substitution of equivalents as was done here; and whether the error was so fatal that it could not be corrected, even by a reissue applied for within seven months after the original; and whether it was not so, in fact, corrected.

The Law of Reissue.

We understand that this Court has construed the provisions of law regulating reissues, as follows:

(1) That the patentee can reissue in case it shall appear that "the original patent embodied as the invention *intended to be* "*secured* by it what the claims of the reissue are intended to cover."

Parker & Whipple Co. vs. Yale Clock Co., 123 U. S., 89.

or he may reissue "*to meet a possible construction of the original*, "whereby the patentee would be precluded from a use of his process "where it was evidently intended to be applied."

Eames vs. Andrews, 122 U. S., 40, 63,

or to remove "ambiguity or obscurity."

Campbell vs. James, 104 U. S., 370.

We understand that this means that the original patent must show the invention claimed in the reissue, and, in it or in the papers accompanying it, must indicate that the inventor *intended* and *attempted* to secure, as his own, and did not *abandon* the invention claimed in the reissue.

We do *not* understand that it must appear that the invention

---

* It will be observed that infringement of only the [illegible]

claimed in the reissue was *actually* in fact *secured* by the claims of the original patent, if those claims be critically construed.

On the contrary, we understand that the inoperativeness of the original patent may consist in the *failure* of the original claims, when construed critically, to claim that which is seen to be the real invention.

(2) That the patentee may not only (if his original "intention" or "attempt" be found to exist) introduce amendments to the specification, but also, *if he applies in due season for a correction, enlarge* his claim, and claim something beyond what the critical construction of his original claim would give him.

Thus, in *Lockwood vs. Morey*, 8 Wall., 230 (cited with approval, 122 U. S., 63), where the inventor had been induced to *limit* his original claim by the mistake of the Commissioner of Patents, he was allowed to remove the limitations by reissue.

Thus, in *Campbell vs. James* 104 U. S., 371, when this Court said, "of course, if by inadvertence, accident or mistake, incorrectly "committed, the claim does not *fully assert* or define the patentee's "right in the invention specified in the patent, a speedy application "for its correction, before adverse rights have accrued, *may be* "*granted.*"

Thus in *Miller vs. Brass Co.*, 104 U. S., 340:

"If a patentee who has no corrections to suggest in his specification except to make his *claim broader and more comprehensive* uses "due diligence in returning to the Patent Office, and says, 'I omitted "'this,' or 'my solicitor did not understand that,' his application "may be entertained, and on a proper showing, correction *may* "*be made.* But it must be remembered that the claim of a "specific device or combination and an omission to claim other devices "or combinations apparent on the face of the patent, are, in "law, a dedication to the public of that which is not claimed. "* * * The legal effect of the patent cannot be revoked *unless* "*the patentee surrenders it and proves that the specification was framed* "*by real inadvertence, accident or mistake* without any fraudulent or "deceptive intention on his part; and this should be done with due "diligence and speed. * * * Nothing but a clear mistake, or "inadvertence, and a speedy application for its correction is admis-"sible when it is sought *merely to enlarge* the claim."

Thus in *Mahn vs. Harwood*, 112 U. S., 362:

"If a patentee has *not claimed as much as he is entitled to*, he is bound to discover the fact in a reasonable time, *or* he loses all right to a reissue."

And again:

"As we have already stated, no invariable rule can be laid down "as to what is reasonable time within which the patentee should "seek for the correction of a claim *which he considers too narrow.* "In *Miller vs. Brass Co.*, by analogy to the law of public use before "an application for a patent, we suggested that a delay of two years

" in applying for such correction should be construed equally fa-
" vorable to the public. But this was a mere suggestion, by the way,
" and was not intended to lay down any general rule. Nevertheless,
" the analogy is an apposite one, and we think that excuse for any
" longer delay than that should be made manifest by the special cir-
" cumstances of the case."

(3) That the finding of the Commissioner of Patents upon the question of fact whether the original defect arose by inadvertence, accident or mistake is a conclusive one, unless the *possibility* of the existence of any such inadvertence, accident or mistake is found to be excluded by an examination of the original papers.

Thus in *Mahn vs. Harwood* (112 U. S., 362):

" It was not intended then (*i. e.*, in *Miller vs Brass Co.*) and is
" not now to question the conclusiveness in suits for infringements
" of patents, of the decisions of the Commissioner on questions of
" fact necessary to be decided before issuing such patents, except as
" the statute gives specific defenses in that regard."

And again:

" Conceding that it is for the Commissioner of Patents to determine whether the insertion of *too narrow a claim* rose from *inadvertance, accident or mistake*, unless when the matter is manifest from the record," yet that it was for the Court to decide the question of *diligence*.

(4) That on the question of due diligence in applying for a reissue, such diligence is *prima facie* proved, if the application is *within two years*.

Thus in *Mahn vs. Harwood*, 112 U. S., 362:

" We think that excuse for *any longer delay than that* should be
" made manifest by the special circumstances of the case."

And in *Wollensak vs. Reiher*, 115 U. S., 100, this Court said that a delay of *more than* two years in applying for a reissue with broader claims made the action "*prima facie un*lawful."

May it not be said that if the *delay* was *less* than two years that the action is *prima facie lawful*.

We shall endeavor to show that the present case falls within the provision of the law as above construed.

In other words, we shall show that, taking the whole history of the original specification together, it would be plain to one skilled in the art (and it is to those only that the specification is addressed), what the real invention of Yale was, and that that real invention is the one described in the second claim of reissue 8783.

That the second claim of the original patent is either for that very invention (the first one is broader) or, if upon a critical construction it should be held that it was confined by its phraseology to certain details of minor importance, yet that it was, at least, so uncertain and ambiguous, and

therefore "inoperative," that the ambiguities and uncertainties and limitations could be removed by reissue (especially by one applied for within seven months thereafter), and the claim could be and was restated so as to conform to what could be seen to be the real invention.

The First, Second, Fourth and Fifth Assignments of Error.

First Point. The first, second, fourth and fifth assignments of error may be considered together.

We contend that it was error in the Court below to hold that the defendant's boxes did not infringe either of the claims of the original patent, or the second claim of reissue of July 9th, 1872, or the third or fourth claims of the reissue of April 24th, 1877, or the second claim of reissue 8783.

The original patent and the three several reissues will be found printed together in parallel columns at the end of this brief.

It will be observed that the original specification contains the following statement:

"This invention relates to an improvement in the construction "of the fronts of post-office boxes, and consists in making said "fronts, including the doors and box frames, of metal, and in "securing the frames to the wooden pigeon-holes by rivets con-"necting the frames with each other at the top, bottom and sides."

So far, it is submitted, the description of the Yale invention is entirely applicable to the defendant's structure.

It, too, is a series of post-office boxes of which the fronts, including the doors and box frames (*i. e.*, the frames surrounding the doors) are "of metal," and such frames are secured to the wooden pigeon-holes "by rivets" (or bolts, which are equivalents), "connecting the frames with each other at the top, bottom and sides."

On this point we appeal to Judge SHIPMAN himself. He says (Rec. p. 324, fol. 538) of these very post-office boxes of the defendants:

"They were manufactured by the Johnson Rotary Lock Com-"pany. The doors and frames made *a continuous metallic frontage.* "The door frames were secured *to the wood work* and *to each other* as "follows" (and then describes the bolting arrangement already noted):

In the construction *particularly described* by Yale, the rivets pass across, parallel to the fronts, through the wood, work from one frame to the next adjoining.

In the defendant's construction, the heads of the bolts or rivets connect the adjoining frames by overlapping the bolt or rivet, passing through the intervening wood-work at right angles to the fronts, and being secured in the rear.

The statement of the subject matter of which the invention "consist" in Yale's original patent is, therefore, so far, broad enough to include the defendant's construction.

The next sentence in the original specification is as follows:

"The body of these boxes is to be made of wood in the usual "manner, namely, a series of pigeon-holes; but the front of the "boxes and the door frames are made of iron or other suitable "metals. Each door frame or box front is so made that it aids in "covering the edge of the wooden partition or pigeon-holes, and is "connected with the other frames above, below and on each side "of it *in such a manner that the frames make a continuous frontage*, "no part can be removed (from the outside) without pulling down "other parts and breaking the wood-work, so that the surreptitious "removal of the front of any box, in order to get at its contents, is "practically impossible."

The above sentence is evidently a part of the *descriptive* phraseology *applicable to the special construction* shown in the drawings.

It is immediately followed by reference to the parts of the drawings by letter.

So far as it specifies any limitations not specified in the broad statement of the nature of the invention, it is to that extent conflict with it.

Yet, even this phraseology of the descriptive part, though more specially referring to the construction shown in the drawings, is *not inapplicable* to the defendant's device.

In the defendant's boxes each frame "is connected with the other "frames above, below and on each side of it, *in such* manner that "the frames make a continuous frontage,"

It is obvious that a continuous metallic frontage is made by any means which secures adjoining boxes in position so that they are connected with each other and with the wood-work in close juxtaposition.

Of the defendant's construction it is true that "no part can be "removed, from the outside, without pulling down other parts," or "breaking the wood-work."

In the Yale box if one front or door be broken access can be had to the connecting rivets, which when unheaded an adjoining frame could be pulled out on the loosened side. If a front is to be pryed off the rivet must be torn out of the wood-work.

In the defendant's structure, also, either one front must be broken so that access may be had to the back of the connecting bolt to allow it to be drawn out, or the bolt must be broken off or forcibly torn out through the wood-work.

In the course of the reference to some of the letters of the drawings the original description contains the following:

"When the frames are all in place each frame is riveted through "the wood-work to its four neighbors (see *h h*, Fig. 2), and thus a "continuous iron frontage is formed."

This sentence is somewhat ambiguous.

The word "thus" cannot mean that the particular mode of connecting the frames is what makes a "continuous iron frontage," for this is not true. Any mode of securing the frames in their abutting position will make a continuous metallic frontage, and it is also obvious that exposed strips of the wood-work might be left between neighboring frames *even though the method of riveting described was adopted*, and if such were the case there, obviously, would be *no* "continuous iron frontage."

The word "thus" must, therefore, be deemed as referring to *all* of the previous description, which contains a complete statement of the method of construction selected for illustration, and the final step in which "mode of using the invention" is *a* form of fastening which makes it effectual for the purposes stated.

It is by the putting of all such frames "in place" and connecting them in close juxtaposition, so as to protect the outside of the wood-work, that the continuous iron frontage is formed, and not by the special method adopted for riveting or securing such frames in place.

But even this last sentence which, at first sight, seems, by the word "thus," to lay such stress on the mode of junction, is applicable, without much straining of construction, to the defendant's arrangement, for, in defendant's series of boxes each frame is, though, perhaps not "riveted," yet "secured" by bolting "through the wood-work to its four neighbors." (So Judge SHIPMAN expressly said.)

The claims of the original patent are as follows:

"1. The combination of several box frames with each other "and with pigeon-holes, as described, by means of rivets passing "through the frames and the wood-work entering between said "frames, the combination being substantially as described."

"2. *The above*, in combination with the flanges making part of "the frames, and protecting and enclosing the exterior of the wood-"work, substantially as set forth."

The presence of these two claims introduces an ambiguity and uncertainty which is recognized to some extent even by the defendant's expert.

If the first claim stood alone, it would, we think, be construed to be satisfied only by such a combination of box frames as protected and enclosed the exterior of the wood-work.

But the second claim, containing the words "*the above*, in com-"bination *with the flanges making part of the frames*," carries with it the implication that the first claim might be infringed by the use of box frames, *without such flanges*—for it is a well-settled rule in the construction of patents that the specific mention of limitations in one claim implies the absence of such limitations in others where they are not mentioned.

Bogert vs. Hinds, 26 F. R., 150.
Burden vs. Corning, 2 Fish, 477.
Lake Shore Co. vs. National Car Co. 110 U. S., 229.

The complainant's expert, Mr. Renwick (p. 42, Qs. 7–8) says: "When the patent is taken as a whole, considering both the claims "and their bearing upon each other, it is my opinion that the first "claim would include frames which *did not* cover the ends of the "wood-work."

And Mr. Hicks, for the defendant (p. 238, fol. 393, and p. 247, x-Qs. 31–43), says:

"x-Q. 32. Then is it your opinion that said first claim of said "original patent covered the combination of box frames, which, when "arranged together, would *not* make a continuous metal frontage? "A. Yes."

Here, then, surely, is a defective specification, for both experts admit that the first claim is so broad as to include a construction which it was the very purpose of the invention to avoid and remedy.

The avoidance of such a possible construction is a proper motive for a reissue (*Eames vs. Andrews*, 122 U. S., 40, 63).

The second claim is certainly awkward and unusual in being prefaced by the general words: "The above." But if *every* feature of construction referred to in the first claim is to be deemed to be thereby carried into the second by implication, still is it not plain that the main purpose and object of the claim was only to cover those features of construction which, in a true sense, made the "continuous metallic frontage;" and even if the *words* of the first claim be literally followed, which prescribe that the several box-frames are to be *combined* "with (the claim does *not* say *attached*) each other, "and with pigeon-holes, as described, by means of rivets passing "through the frames, and the wood-work entering between the said "frames, the combination being substantially as described." Still, do not those words fairly include the combination of box-frames used by the defendant?

Are not the defendant's box-frames "combined with each other, and with pigeon-holes?"

Have not each of the frames, "flanges making part of the frames, "and protecting and enclosing the exterior of the wood-work?"

Is not the combination of the defendant's frames made effective by means of rivets (or bolts) "passing through the frames and the "wood-work entering between the said frames;" and is the combination substantially differentiated by the mere change in the direction of the bolts or rivets; a change which, as we shall see, it is admitted by experts on both sides is merely a formal one.

A similar question was before this Court in *Lake Shore Co. vs. National Car Brake Co.*, 110 U. S., 229, in which there were two claims, one specifying certain limiting features, and the other only implying them, if at all, by the use of the words "substantially as specified," and this Court there said:

"The words 'substantially as specified,' mean substantially as "specified in regard to the combination, *which is the subject of the* "*claim*, and there is no suggestion that the combination of the sec-

" ond claim was not new; and there being nothing shown in the " state of the art which requires any such construction of the second " claim as that contended for by the defendant, and it being fairly " susceptible of the opposite construction, and the latter being one " which is commensurate with the real invention embraced in the " second claim, and one *which prevents the real substance of that " invention from being bodily appropriated by an infringer*, it is " proper to give the claim such a construction."

Even W. C. Hicks, *defendant's* expert, admits that defendant's boxes do not differ from complainant's by embodying any new substantive invention, for he is asked (p. 250):

" x-Q. 52. Is it your opinion that the real benefit of the com- " bination of wooden pigeon-holes with metallic frontage, formed by " the fronts of continuous boxes, was in fact dependent upon the " special method of fastening, illustrated and described in the original " Yale patent?"

Objected to on the ground that the patentee cannot be allowed to show, by evidence, that what he has described and claimed as material, and is in fact mechanically immaterial.

" A. *No;* the patentee, however, says, 'when the frames are all " ' in place each frame is riveted to its four neighbors (see *h*, *h*, " ' Fig. 2), and thus a continuous iron frontage is formed.' "

And again:

" x-Q. 56. In your opinion did it require 'invention,' as distin- " guished from mere mechanical skill, after Yale had shown in his " patent its metallic points (fronts) connected to the wood work by " rivets; which also fasten the ears of adjacent frames to each other, " to connect such fronts to the wood-work by screws or nails or pins, " which did not fasten together the ears and adjacent frames?"

" A. *In my opinion it did not.*"

It cannot be claimed, therefore, according to the express admission of the defendant's expert, that even if the original patent was limited on a nice construction of its phraseology, to the *exact* mode of fastening illustrated, that by any subsequent restatement of the claims, so as to cause them to embrace the real invention, the patent has been made to cover any *subsequent invention*.

The evil and injustice which had been practiced in the cases of many of the reissues, which have been condemned by this Court, does not exist in the present case.

The original patent of Yale has not been expanded so as to " sweep into its net " (*Miller vs. Brass Co.*, 104 U. S., 350), the labors and inventions of subsequent constructors, but has only been amended to effectuate the claim for what Judge SHIPMAN himself admitted, as we shall see, " was plainly the subject matter of " the original patent (Scovil Co., Opinion, p. 108).

The defect, if any, was one of the kind of which this Court said in *Grant vs. Raymond*, 6 Pet., 218, it would be proper to cure by reissue, as follows:

" It is not probable that the defect of the specification can be so " apparent, as to be perceived by any but those *who examine it for* " *the purpose of pirating the invention. They are not entitled to* " *much favor.*"

The Third Assignment of Error.

Second Point. But even if the Court should be of opinion that the original claims, as made, did not include the defendant's structure, still we submit that there was error in not holding that, if so, it was "inoperative," to that extent, by "inadvertence, accident and mistake," within the meaning of the statute, and that the defect was corrected in due time by the reissue of July 9th, 1872, which was applied for within seven months from the date of the original.

We understand that the decisions of this Court and of the Circuit Courts are uniform in holding that the acceptance by the Commissioner of Patents of the surrender of the original patent, and the grant by him of a reissue, is at least *prima facie* evidence of the existence of the statutory prerequisites, to wit: (1) That the original patent was "inoperative" or "invalid," and (2) that the defects were due to inadvertence, accident or mistake.

Wooster vs. Clark, 119 U. S., 322, 326.
Seymour vs. Osborne, 11 Wall., 516.
Goodyear vs. Smith, 1 Ban. & Ard., 205.

The earlier cases held (and we do not understand that in this they have been disturbed) that the presumption of the existence of such statutory prerequisites is a *conclusive presumption* unless it shall clearly appear on the face of the papers that there *could* have been no inadvertence, accident or mistake.

Seymour vs. Osborne, 11 Wall., 516.
Glue Co. vs. Upton, 97 U. S., 3.
Collar Co. vs. Van Dusen, 23 Wall., 530.
Graham vs. Mason, 4 Cliff., 88.
Mahn vs. Harwood, 112 U. S., 362.

We understand that a patent is "inoperative" within the meaning of the statute, when it is found upon a critical examination of its terms that it fails to claim that which is seen by a fair examination of the papers when read by those skilled in the art to which it relates (and, therefore, by those familiar with the prior state of the art), that the real invention attempted to be secured by the patentee has not been adequately secured.

(a) If the original patent did not successfully claim the invention in controversy, yet it at least shows an ATTEMPT *to claim it.*

On this point we again appeal to Judge SHIPMAN himself.

He said, in the Scovill Co. case (p. 103), referring to the *original* patent :

" From the history of the art *and the language of the specification* " it appears that the invention consisted of a tier or series of metallic " doors and metallic door frames in combination with a series of " wooden pigeon-holes for post-office boxes ; said series of door- " frames being so constructed with relation to the wood-work, and " so connected with each other as to make a continuous metallic " frontage, no part of which can be removed from the outside without " pulling down other parts and breaking the wood-work."

The reissue, No. 8783, " describes the invention which the history " of the art and the patent shows should have been applied for, and " the *same invention* which, aided by the light which is thrown upon " the original patent by the knowledge of the state of the art *we can* " *see formed the subject of the original specification*, but was then " cramped within too narrow bounds."

And again, after citing *Goodyear vs. Day*, 2 Wall., Jr., 283, and *Powder Co. vs. Powder Works*, 98 U. S., 126 :

" I understand that the Supreme Court in the case cited, and in " other cases, intend to declare that in a reissue the same, and only " the same, invention *which was attempted to be secured in the original* " *patent*, but which was there imperfectly stated, and was not fully " secured " *through inadvertence, accident or mistake*, can be restated " so that the principles or details of the invention may be presented " clearly and accurately."

And again : " But if the patentee has made *a palpable mistake*, " and has limited his real invention by a misstatement of its princi- " ples so that he is about to lose the fruit of his labor, he should be " permitted to restate, and, if need be, enlarge his specification so as " to include the same invention *which was plainly the subject of* but " was not fully secured by the original patent ; although literally, " the enlarged invention is one in which he did not apply for in his " original specification, because that specification, by a misstatement " of his actual invention, applied for a narrower patent than he " was entitled to have. *As thus explained, there is no substantive new* " *matter in the reissued specification.*"

by the state of the art, "*we can see, formed the subject of the original claim*, but was then cramped within too narrow bounds"; or, in the most unfavorable view, that (2) the original patent was so doubtful in construction and meaning that Judge SHIPMAN, after a full argument, came to the conclusion that it did reveal, and attempted, though unsuccessfully, to secure what the reissue now claims.

If the latter proposition only be true, is it an unreasonable view to hold that the inventor may be excused for having made a mistake by the use of phraseology which a court held *revealed* though it did not *secure* his real invention, and that in such case the presumptions of law in favor of the correctness and legality of the acts of a public officer like the Commissioner of Patents must be effective; it must be presumed that he had the proper proofs before him of the existence of inadvertence, accident or mistake, and of the intention of the patentee to secure that which "we can see formed "the subject of the original claim."

It is only, as we understand it, when the *possibility* of the existence of mistake is *excluded*, by comparison of the papers, that the Court will hold the act of the Commissioner *coram non judice* and void (Seymour vs. Osborne, 11 Wall., 516; Goodyear Co. vs. Smith, 1 B. & A., 205; Mowry vs. Whitney, 14 Wall., 434). When doubt may fairly be entertained upon the point whether there was an error and whether it was inadvertent or designed, the decision of the Commissioner will be upheld. The reissued patent if in due form and granted within two years makes a *prima facie* case of correctness and legality of the Commissioner's action (*Wooster vs. Clark*, 119 U. S., 322, 326), and the decision of a Circuit Court directly upon the proposition that the original specification revealed an "attempt" on the part of the patentee to secure the real invention must, we submit, conclusively establish the proposition that the question was so far an open one as to admit of the exercise of a judicial finding on the part of the Commissioner upon the point in issue, and if that be so, carry with it the *prima facie*, if not conclusive presumption that the proper proofs were before him in coming to his conclusion that the error committed occurred by "inadvertence, accident or mistake" and *not* by "fraudulent or deceptive invention." (*O'Reilly vs. Morse*, 15 How., 62; *Herring vs. Gage*, 107 U. S., 640).

If there was room for a fair difference of opinion upon the question whether or not the original patent disclosed and indicated an "attempt" and "intent" on the part of the patentee to secure the invention now claimed, is not the decision of the Commissioner on that question of fact conclusive? And that there is fair room for such difference of opinion, is satisfactorily established by the fact that the *same Judge* who decided the present case had previously in the Scovill case distinctly held that he found sufficient evidence of such attempt and intent in the original papers.

(c) *The history of the Yale application and patent and of the asser-*

tions of right under it support the contention that the original claim was INTENDED *and* BELIEVED *to cover the subject matter of the reissue.*

In the present case we submit that the proceedings must be viewed with that degree of indulgence which may fairly be invoked when the original patentee is deceased and cannot testify on his own behalf, or fully explain the circumstances under which he acted.

The circumstances in the present case are peculiar.

The original application of Yale was filed on September 30th, 1868 (pp. 121–124).

Its first two claims were not materially different from those found in the original patent.

It contained a fourth claim, erased October 13th 1869, for the form of lock and bolt used on the doors.

The applicant died prior to September 1st, 1869, when a communication appears from his administrator (p. 124).

The application at that time stood rejected upon certain references, which, as they are not relied on by the defendant, must be deemed to have been insufficient (p. 124).

On September 8th, 1869, and again on October 16th, 1869, the Patent Office Examiner required a division of the application (fols. 216–218), on the ground that:

" The first and second claims will *probably involve further dis-*
" *cussion*, as they relate to features entirely unconnected, in design
" and operation, with the subject of the third and fourth claims."

The statement by the Examiner that the first and second claims would probably involve further discussion implies a reconsideration of the rejection on the ground of want of novelty.

In the meantime, on March 26th, 1869, William L. Burt had filed an application, which was a substantial copy of the Yale application (pp. 140–144).

The first claim of the Burt application was obviously intended to cover the same ground as the first claim of Yale's, and Burt's second claim was obviously intended to cover the same ground as the second claim of the Yale application.

But it will be noticed that the second claim of Burt clearly covers the same subject matter as that which we have contended was the true construction of the second claim of Yale, and that which Judge SHIPMAN held was the " real invention " of Yale.

The Burt application contained four additional claims for minor details, which were afterwards erased.

On May 24th, 1869 (p. 145), the Examiner required a division of the Burt application.

On June 3d, 1869 (p. 146), the third, fourth, fifth and sixth claims of Burt's were erased for the purpose of the division, and the novelty of Burt's *claims* was defended, the applicant's attorney saying in regard to the subject matter of the second (fol. 252):

" It is also believed that never before have such separate door
" frames been provided with flanges to overlap the front edges of the

" wooden boxes, and when applied thereto to meet together so as to " completely cover such, in manner as described. The whole thing " may be a matter of fitting, but it is fitting to a purpose, for a val- " uable result is accomplished by it. Mr. Burt's improvements " effect a full metallic front to a letter box frame made of wood, and " thus saves the necessity of making the latter of iron, and the great " expense consequent," &c.

On November 24th, 1869, on appeal to the Board of Examiners-in-Chief, the subject matter of the first three claims of Burt was held patentable (p. 154, fol. 268).

On December 11th, 1869, the Patent Office having thus decided that there was no valid objection to the first and second claims of Burt and of Yale, declared an interference between the two applications (fol. 257).

At that date each application (Yale's and Burt's) contained *two claims only*, and the Patent Office sent each of them a notice containing the following statement (see Notice to Yale, p. 130, fol. 224, and Notice to Burt, p. 150, fol. 257).

" In the matter of the alleged invention above referred to, notice " is hereby given to the applicants hereinafter named that their " claims *are adjudged to interfere with each other*, and that a hearing " will be granted them on the 5th day of February, 1870."

Clearly then it was the judgment of the Patent Office that the *claims* of Yale and of Burt " interfered " (*i. e.*, covered substantially the same subject matter).

If the Patent Office so adjudged and notified the applicants, surely it may be considered a not unpardonable error or mistake on the part of Yale's administrator, if he was of the same opinion; and as the second claim of Burt's clearly covered the broad subject matter which we insist is the real invention in controversy, it was a case of actual mistake on the part of Yale, if his second claim be not construed to cover the same subject matter.

Yale, being the prior applicant, the burden of proof to establish priority was upon Burt, and it appears that he took no testimony.

It would seem that Burt had asserted his claims, and at one time, perhaps, had succeeded in persuading the administrator of Yale to admit priority in his favor (Towne's Evidence, p. 83, Q. 16), and it was proposed that the Yale Lock Company should buy the Burt application, and, at one time it was proposed to have the patent issue to Burt.

On submission of the facts in regard to who was the real inventors to counsel, it appears, however, to have been determined that Yale, and not Burt, was the true inventor of the subject matter in dispute, and on February 4th, 1870, John B. Yale, Jr., son of the inventor, and secretary of complainant, wrote to Mr. Burt as follows (p. 114):

" February 4th, '70.

" GEN. W. L. BURT,
" P. M., Boston.

" DEAR SIR—I have, until to-day, been unable to get an opinion " by our counsel of the advisability or safety of the arrangement " proposed in regard to the patent for post-office lock boxes. *He " says it will be very unsafe to allow the patents to issue to any one not " the inventor*, inasmuch as with our application, with proof of our " claim any one so disposed can call upon us to testify and per- " haps break our own patent, if we prove to have been the original " patentee ; so, no course now remains but to proceed with the ex- " amination which is to take place to-morrow, I think, but which if " so disposed I wish you would get postponed, and write us " your views of the matter as it stands, and give us any " suggestions you have to make. Please let us hear " from you, with some idea of time at which you will return to Wash- " ington.

" Yours truly,
" JNO. B. YALE, JR."

No testimony having been taken on behalf of Burt (it is fair to presume because he could not satisfactorily prove that he and not Yale was the true inventor), the interference was decided in favor of Yale on February 24th, 1870 (p. 138, fol. 238).

On July 13th, 1870, Burt sold his application and the right to any patent thereunder to the complainant (p. 119).

At this period, then, it will be perceived that the complainant was the owner of both applications in interference.

They had, therefore, no interests to subserve except to obtain a valid patent, and one covering the subject matter which they wished to control, by patenting whichever application really covered it.

It cannot be doubted but that it was the opinion of the complainant and of its attorneys that each application claimed the same subject matter.

Their investigation of the facts satisfied them that Yale was the prior inventor.

If they had supposed that the Yale application was not so extensive as that of Burt, they would obviously either have amended the Yale application accordingly, or if they had supposed that the Burt application covered a broader invention than that which was or could be legally and honestly claimed by Yale, they would have taken patents on behalf of each applicant for what he invented.

As a matter of fact they dropped and abandoned the Burt application, and the patent was issued on the Yale application.

These facts are persuasive and convincing that the administrator of Yale, and the complainant, owner of that application, believed that Yale's application then covered the subject matter which we now claim that it covered, and which was admittedly the real invention of value.

It must be borne in mind that at that very time post-office boxes identical with those used by the defendants had then been put upon the market by the Johnson Rotary Lock Company, which supplied the defendants' boxes (Keating, p. 70, Qs. 15–22). Chambers, manager of the Johnson Co., says (p. 219, Qs. 8–12) some were made as early as 1867 (Q. 11), but he afterwards corrects this to 1869 (x-Qs. 107–115).

It is inconceivable that the complainants, owning the application of Burt, which explicitly covered the subject matter in controversy, and also the application of Yale, which the Patent Office had adjudged to claim the same subject matter, and knowing as they did that pending these applications the competing boxes of the Johnson Rotary Co., now in controversy, had been put upon the market, should not have amended the Yale claims so as to cover the very subject matter which they were seeking to control, unless they had believed that those claims, as then drawn, covered that which they were attempting to secure.

If the Court should now hold otherwise, and hold that the claims of Yale, when critically examined, did not cover that subject matter, then a clear case of "mistake" is proved to have occurred on the part of the patentee and the owners of the patent in believing that they had a claim for the subject matter in controversy.

Mr. Towne, the president of complainant company, sums up the position in regard to those applications as follows (p. 94, Q. 83):

"I consulted frequently and fully with our counsel regarding "this matter; at that time the entire interest in both Yale's and "Burt's applications had passed into our hands, so that it was im- "material to us in which name the patent issued, and our sole desire "was to put the case into the *best and strongest condition possible;* "to this end and by advice of our counsel it was decided to seek the "grant of the patent upon the application of Yale."

After the patent was granted to Yale, the same belief in regard to its scope was entertained by its owners, to wit: that it covered the defendant's form of box, and this claim was persistently asserted on behalf of complainant.

Mr. Mullett, Supervising Architect of the Treasury, and a witness for defendants, was asked (p. 189):

"x-Q 47. Did the Yale Lock Manufacturing Company *always* "claim that these Johnson Rotary Lock Boxes were an infringement "upon their patent?

"A. *I so understood.*

"x-Q. 48. Did they so notify the Department and the Post- "masters?

"A. I do not remember whether any formal notice was served "on the Treasury or not, but it was fully understood by the Treas- "ury Department that the use of any other boxes was claimed by "the Yale Lock Company was an infringement upon their rights; as "to Postmasters I know nothing.

On November 11th, 1871, only about fifty days after the grant of

the original patent, complainant filed its bill against the Johnson Rotary Lock Company for infringement (p. 233, fol. 386).

This suit was discontinued immediately after obtaining the first reissue, to be next mentioned (p. 234, fol. 386).*

It appears that at that time the Johnson Company contended "that Yale's claim was restricted to the particular method of fasten-"ing the metal fronts to the wood-work" (p. 95, fol. 159).

This has always been the contention raised by defendants. It is just the kind of defect in a patent which would be discovered only by those "who examine it for the purpose of pivating the invention (*Grant vs. Raymond*, 6 Pet., 218), and who are not entitled to much favor" (*Id.*).

On May 7th, 1872, seven months after the grant of the original patent, which it is perfectly evident the patentees supposed to cover the real invention in this case, a reissue was applied for.

No new intervening rights had accrued.

The Johnson Rotary Lock Company (makers of defendant's boxes) had put their infringing goods upon the market while the Burt and Yale application had been pending and before any patent was granted.

The original patent to Yale was granted with the full belief that the invention which had been attempted to be secured had been in fact secured.

The bill in equity promptly filed against the Johnson Company in November, 1871, affirms that belief.

A careful criticism seems to have induced the complainant to apply for a reissue, so as to remove doubts, and clearly claim that which they had all along believed was fully claimed.

In *Western Union Co. vs. Balt. & Ohio Co.*, 25 Fed. Rep., 30, Judge WALLACE said, in holding a reissued claim valid on a similar state of facts:

"Nothing in the affidavits indicates that the reissue was applied "for in view of any *new* apparatus or patent brought into existence "*intermediate* his application and the date of the reissue. There "was no motive for enlarging the claim *which did not exist when he* "*applied for the original patent.*"

(d) The reissue of July 9, 1872, in fact claimed the subject matter in controversy.

On May 7th, 1872, the application for reissue was filed (pp. 273-275).

---

* A new suit was commenced upon the first reissue of July 9, 1872 (fol. 387). This suit was not prosecuted, but another commenced upon the second reissue (with other patents) which was prosecuted to final hearing and an injunction obtained (pp. 236-9, 24, and pp. 224 and 9, 1-72, and p. 110).

The first claim of that application is identical with the first claim of the original patent.

The second claim of that application was in the following words (fol. 450):

"SECOND. The combination of two or more metallic frames and "doors, and locks, with pigeon holes, said frames having flanges "which protect and enclose wholly or in part the front edges of the "said pigeon holes."

The third claim was in the following words (fol. 450):

"THIRD. The combination of several metallic box frames with each "other and with pigeon-holes, said box frames being secured to said "pigeon-holes independently of each other by means of screws or "other similar fastenings, as described."

We think it cannot be doubted but that the second claim covered the subject matter, which the patentees evidently supposed was covered by the original patent.

The changes of phraseology which appear by comparison between it and the second claim of the original patent show clearly that it was the intention of the applicant to remove the restrictions, or the doubt as to the existence of the restriction, to the particular mode of fastening described in the original specifications.

Judge SHIPMAN, in his opinion (fol. 544), admits that such would be a natural and probable construction which it ought to have, were it not, as he says, for the existence in that application for reissue of the third claim just quoted.

That third claim was objected to as containing "new suggestions "not warranted by the original patent" (p. 276, fol. 452), and was erased.

It is perfectly obvious that the action of the Patent Office in this matter and of the applicant in erasing the claim was perfectly correct.

It was entirely competent and proper for the applicant, if his original claims by their phraseology limited him to a special mode of construction which was not of the essence of the invention, to modify those claims so that they would not be so limited in phraseology.*

But it was not competent or proper for him to introduce into his

---

* Such a course was sanctioned by this Court in Morey vs. Lockwood, 8 Wall., 230-241 (cited with apparent approval in Eames vs. Andrews, 122 U. S., 40), which relieved the patentee of the difficulty, that "while the original specification and claim remained it was competent for any one to evade the patent, and enjoy the substance of the improvement by a change in the mere form of the construction." And it was intimated by this Court in *Thompson vs. Wooster*, 114 U. S., 104, 115, that though an original patent may be entirely "clear, full and sufficient," as to certain particular parts of an invention or "*modes of using it*," yet a reissue may be lawfully granted if there are "certain other parts of the invention, *or modes of using* "*it and putting it into operation*, as to which the specification was defective or in-"sufficient and which were not noticed until the application for the reissue was "made."

description or into the *express phraseology* of his claims any new description of alternative devices.

He attempted to do this by his new *third* claim and by the specific description of "screws" as a mode of fastening, and the Patent Office required him to erase the "new matter" (Ex. letter of May 8, 1872, p. 276).

The third claim was erased because it contained "*new suggestions*" not found in the original specification.

It is one thing to amend a claim by freeing it from words which indirectly and unduly *limit its meaning*, and it is quite another thing to improperly insert new descriptive words which were not used in the original patent, even though they might have been held, as matter of legal construction, to be equivalents (see Examiner-in-Chief's decision of June 17, 1872, p. 282, when this distinction is pointed out).

The one amendment, that which the patentee made by the amendment of the original second claim, so as to read as he left it in the reissue of July 9, 1872, was the proper one, for it gave to him the benefit of a fair legal construction of his grant unencumbered by technical words of limitation.

The second amendment, that attempted to be secured in the new third claim, was improper because it attempted to insert express descriptions of contrivances not previously expressly described.

That the view of the Patent Office was that the first and second claims covered the real intention, which, we have seen, had been explicitly claimed without words of limitation in the application of Burt, is clear from the decision of the Examiners-in-Chief on appeal from the decision of the Examiners rejecting the first and second claims for want of patentability.

They said (p. 282, fol. 462):

"The patentability of the subject matter of the claim has been
" too often adjudicated by the Examiners, and by this Board and
" the Commissioner *in the application of Burt*, and in the declaration
" of interference between him and Yale and the proceedings therein,
" and in the application and proceedings therein of Yale, and in the
" issuing to him of the patent sought to be reissued, to be a ques-
" tion for a moment's consideration. The decision of the Examiner
" is reversed."

We submit, then, that on the grant of the reissue of July 9th, 1872, the second claim, at least, of the reissue patent, covered broadly the subject matter now claimed.

That that application was filed in due time, that the correction was one which only sought to effectuate the original attempt to patent the subject matter in controversy, and did patent the subject matter which patentee supposed he had covered in the original grant.

In *Western Union Tel. Co. vs. Balt. & Ohio Tel. Co.* (25 Fed. Rep., 30, an elaborately argued and well-considered case), the

original patent contained a claim for the duplex telegraph described "at each station" of the line. In a reissue applied for within eleven months, these words were eliminated. Judge WALLACE, after considering the recent reissue decisions of this Court, said of one of the claims of the reissue before him:

"The claim in the original patent was not one as to which it "can be said that the patentee had *no ground* to suppose it to be "narrower than his invention. It did not *necessarily* and *unequivo-* "*cally confine* the patentee to a combination requiring a condenser "in connection with the relay *at each station*. While that might be "the interpretation which on first inspection would be suggested to "the mind of the patentee, *there was, nevertheless, room to contend* "for one which would give him all he was entitled to."

How applicable these remarks are to the original claim in the present case.

"The case is one where a patentee applied for a reissue within "eleven months from the date of his original patent, in order to "correct a claim which might not fully secure his invention, and "which was certainly so ambiguous as to suggest a doubt whether it "was sufficient or not. It is not a case where the suggestions of "inadvertence or mistake was a pretense of the patentee, or where "the mistake was so obvious as to be instantly discernible upon "reading the claim. So far from being apparent upon the first "inspection of the patent there is room for grave doubt now whether "it was not sufficient. The patentee was justified in moving cau- "tiously and in saving himself unnecessary expense. The granting "of the reissue, so far from being an abuse of the power conferred "upon the Commissioner, *was a just and equitable exercise of his* "*authority*. The patentee was not guilty of laches; his application "was made within the reasonable time; and the reissue, so far at "least as it relates to the second claim, was a legitimate and com- "mendable exercise by the Commissioner of the duty devolved "upon him by statute."

(c) The subsequent reissues carry forward, and continue, with more definiteness, the same claim.

The claim was perhaps, however, open to objection as too broad, in that it contained the words, "in whole or in part."

These words were criticized in the decision of the Examiners-in-Chief on appeal (p. 282, fol. 462), but for some reason were not erased.

It is very evident that box fronts with flanges which did not wholly cover the intervening wood-work, would not make a *continuous* metallic frontage. Hence, if the meaning of these words was that the fronts might be set up without wholly covering the wood-work, they were erroneous.

Probably their meaning was that each frame should partially

cover the intervening wood-work, and that the juxtaposition of all should wholly cover it.

This was what was described in the original patent.

To correct this mistake, among others, a second reissue was applied for.

The third and fourth claims of reissue of April 24th, 1877 (applied for April 19th, 1875), are clearly the first and second claims of the reissue of July 9th, 1872, the order being reversed (with the above objection to the second claim erased).

The other claims in the reissue of 1877 do not need especial attention.

The first, fifth and sixth appear to claim separate doors and frames, and not the association of a plurality of fronts together to make a continuous metallic frontage, which was the subject matter of the original invention.*

The reissue of July 1st, 1879, No. 8783 (the one in suit), has three claims.

The first is, perhaps, open to the objection that the mere setting of the metallic fronts in place, without fastening them at all, is claimed.

The second claim, which we now rely upon, is in the following words (p. 213):

"2. The combination, substantially as described, of a series of "wooden pigeon holes with a series of metallic door frames and "doors, and with rivets or bolts, which attach the frames to the "wood-work, whereby a continuous metallic frontage secured the "wood-work of pigeon holes, is obtained."

This claim clearly covers the subject matter of invention and the real invention as we understand and have explained it.

It does not limit the mere method of construction or use to the specific way in which the bolts or rivets are used, but gives to the inventor a control of that which Judge SHIPMAN held in the Scovill case was the real invention.

The third claim is more limited and specific in phraseology than was any claim of the original patent or any subsequent reissue.

It *expressly* requires that the rivets or bolts shall "attach" the frames, both to the wood-work and to each other.

This would exclude, by its terms, the structure used by defendant, equivalent though they be, for the purpose of making a continuous metallic frontage.

The original patent contained no such *express* terms of limitation, for in that the box-frames were merely stated to be in "combination" with each other (not necessarily attached), and the combination was made by rivets passing "through the frames" (as is

---

* Such reissue claims were regarded at that date by the Circuit Court, at least, as proper, though since held to be improper.

the case in defendant's boxes) " and the wood-work " (as is also the case in defendant's boxes).

We submit that the history of this application shows that of a *bona fide* attempt to secure, in the first instance, a valuable invention, that that attempt was either successful, or if unsuccessful, was so by inadvertence, accident or mistake.

We further submit that the supposed error, if it existed, was in due time sought to be corrected by reissue applied for within seven months, and before any *intervening* rights had accrued.

That the first reissue was intended to effectuate, and did effectuate, only what was claimed as the invention, according to the purpose, intent and scope of the original patent.

That the claim of the 1st reissue was made, however, more explicit in terms by the 2d reissue, and this claim has been continued and carried forward in the subsequent reissue.

That the present reissue is merely to remove all possible doubts as to the control by the patentee, which he, from the first, sought and asserted, and believed that he, in fact, did control.

It is only fair to advert to one part of the proof, and we believe the only part, which militates against the above view.

This is found in the alleged letter of Yale to William L. Burt, purporting to be dated February 8th, 1868 (p. 316).

We have treated of this letter at a subsequent place in this brief (p. 42) in discussing the question whether Yale or Burt was the true inventor of the subject matter of the second claim of the reissue in suit.

If it be held that this is to be proved to be Yale's letter, it has a bearing upon the question whether he originally attempted to secure by his original patent the invention now claimed, and so it must be also considered here.

In the first place there is no adequate proof that any such letter was ever written by Yale.

The defendant gives no account of its origin, or how the paper came into their possession.

It was first produced upon the cross-examination of complainant's witness, Tyler (p. 36).

The following questions were asked:

" x-Q. 133. Look at the paper I show you, on which the words " ' I am, very respectfully, Linus Yale, Jr.,' are exposed to view, the " rest of the writing being covered up, and state in whose handwrit- " ing those words I have quoted are ? "

Objected to as not proper cross-examination, or responsive to the direct; also because the witness' competency as an expert is not shown.

" A. I should say that looked like his handwriting.

" Q. 134. Well, it is your opinion it is his handwriting?

" A. I should think it was; I ain't expert enough to tell; it looks like it."

Subsequently the whole letter was shown (p. 56) and the following questions asked :

" x-Q. 233. I will now show you the whole of the letter, the sig-
" nature of which you identified as Mr. Yale's the other day, and
" state whether the handwriting of the whole of it is Mr. Yale's? I
" refer to the paper marked for identification ' Defendant's Exhibit
" Yale Signature ? "

Objected to as not cross-examination.

" A. Well, I should say that was his letter."

The letter was then offered in evidence, and will be found printed at page 56.

This surely is very slight evidence upon which to attempt to convict the inventor in this case of having, at the date of the letter, held an opinion as to the scope of the invention which, as we have before shown, is in conflict with the uniform assertion of its scope by those claiming under him.

But it is by no means to be inferred, if the letter be a genuine one of Yale's, that he is there speaking of the particular invention now in controversy.

The letter, it will be observed, is dated March 17th, 1868.

The original application for the patent was not filed until September 30th, 1868 (p. 124, fol. 212).

The letter preceded the application therefore by more than six months.

Whether Yale had at that date devised the improvement, which consists of the separation of the metallic frontage into small separate fronts for individual boxes, and by securing each of them in position, thereby fastening the whole frontage, does not appear.

The earliest record of the existence of the *separate* fronts is on May 18th, 1868 (p. 177, Q. 7), at which time a tier of wooden pigeonholes for the Boston Post-office was made, and at which date the constructor had only a single metal " as a sample to work from " (Q. 11), which fronts undoubtedly came from the Yale Lock Co. (p. 173, Q. 104, and p. 163, Q. 23).

When, therefore, Mr. Yale said, in the letter of March 17th, 1868 (if he ever wrote that letter), " I do not anticipate trouble about the " Bramble Pat., and only wish to say that I claim only the manner " of fastening in the frame to the wood-work, which I have no doubt " you will allow is mine ; I had already consulted my patent solicitor, " H. B. Renwick, of this city, as to the feasibility of patenting the " manner of fastening in sample, and am informed it can un- " doubtedly be patented. The matter of a metal door with glass " and lock, I, of course, have no claim to it," it by no means appears that these words do not refer to some prior mode of fastening which he may have devised for *Burt's solid frame*, or if it does refer to the present invention it is by no means a strained construction to hold that what Yale appears to have spoken of as " the manner of fastening," he meant the mode of fastening a continuous front of metal to wooden boxes by breaking up the solid frame into small separate fronts and securing each in position by appropriate means.

Seventh Assignment of Error.

Third Point. "*Invention*" *was required to make the thing patented.*

The invention was made by Yale and not by Burt.

The title to the patent is in the complainant alone.

There should have been a decree for complainant.

An important question in this case is that raised by the contention that no invention was required on the part of Mr. Yale to devise and make the thing patented in the patent in suit.

In other words, that in view of the state of the art any person of ordinary mechanical skill would by such skill only, and without exercising any invention, necessarily arrive at the conclusion Yale arrived at, and produce the thing Yale claims whnever the subject was presented to his mind (Hicks, p. 244, Qs. 14–16).

We understand that Judge Shipman's opinion on this point was in favor of the patentee; at least such was his decision in the Scovill case, and there is no indication that his views then expressed had undergone any change.

He did not so decide in this case because his opinion was against the complainant on the reissue question.

As the question is, however, now open for discussion, and necessary to a decision in favor of complainant, it is here considered.

Whether invention was required or in fact exercised may be viewed in this aspect as a question of fact, and also as one of law. We first consider it as a question of fact.

(*a*) Invention was Required and Exercised in Point of Fact.

Yale's invention, as we construe it, was the combination with a series of *wooden* post-office boxes of a series of *separate* metallic fronts, so combined together and secured in position to the boxes and with each other as to overlap and protect the wood of the boxes and form *a continuous metallic frontage*, which can be cheaply made, easily transported and readily set up and adapted to any space and location.

In order that we may answer the question whether Yale's construction involved invention to make, it is necessary to review the state of the art and see what was *in fact* done, or attempted to be done, by others *in the direction* of this invention before the date of Yale's patent. It is obvious that the history of what inventors actually did, when the want (*afterwards* filled by the Yale invention) was presented to their minds, will be much more persuasive evidence of the natural and necessary working of an inventor's mind than opinions *now* expressed, after the invention is known, as to whether it was, previous to its conception, obvious or not.

It must be conceded in the first place that Yale's device has been

an important improvement, has been generally adopted, and when once known has gone into very extensive use.

Mr. Towne (p. 175, Q. 4); Keating (p. 68, Qs. 8-14); Mullet (p. 187, x-Q. 40, and p. 191, x-Qs. 56–57).

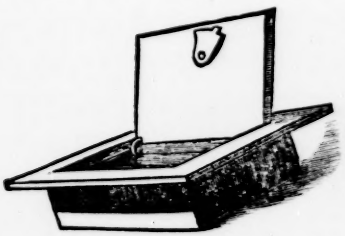
Now it must be remembered that post-office boxes of other kinds have long been known and largely used, and that even lock-boxes having wooden doors had been in public use for nearly forty years. Lewis (p. 167,
Qs. 33–4).

It would seem, therefore, that the Yale invention, if so simple and obvious as is now contended, would have been introduced long prior to the date when Yale introduced it.

It must be remembered that, as Yale is presumed in law to have known of all prior structures in the state of the art, the same presumption is to be extended to all other persons, and this legal presumption becomes one of fact when it is seen what ordinary structures are relied upon as necessarily teaching the world how to do what Yale in fact first did.

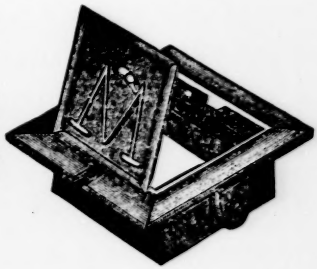
The first article relied on by the defendants is the "street washer boxes" (Stipulation, p. 265). These articles are admitted to have been used at least for several years prior to 1868, and were probably to be seen on every city street corner for the last forty years.

Fig. 1.



Street Washer Boxes, with Hinged Cover.

Fig. 2.



Stop Cock Box Cover, with Latch.

The resemblance between them and post-office boxes is not very obvious, and if it were more so still, these washers have not the most remote connection with the combination, in series, of a number of wooden boxes, each provided with a metallic front, so arranged together as to form a continuous metallic frontage (see Renwick, p. 49, Q. 15).

The next article relied on by the defendants is the wooden front post-office boxes. These, as already seen, have been publicly known in various forms since 1845 (Series, p. 166; Stipulation, p. 316) and such lengthened use, without suggestion of the Yale device, would seem to negative the conclusion sought to be drawn by the defendant (Renwick, p. 44, fol. 75).

The next device is the Safe Deposit Boxes, and the single iron boxes in safes.

Both these were used publicly for years prior to 1867.

The first consisted of a considerable group of iron boxes protected by a single front for the group, several of such large groups being piled up and fastened together. The last consisted of a single iron front attached to a single iron box. Single iron boxes, with iron fronts and doors, which existed as early as 1862, were before the Court in the *Scovil Co.'s* case (p. 50, Q. 18).

It may not be very material, but it is well to note that the model "Defendant's Exhibit Safe Deposit Boxes" does not accurately show anything that is proved to have been made prior to Yale's invention.

This model is a sample structure, having four boxes; it was made not for practical use but "for exhibiting" and "taking orders from," and though the witness "*thinks* they were made in 1867" (p. 213, Q. 70), yet he cannot be positive of the time within two years (p. 208, Qs. 25–30). Now Yale's invention was certainly made as early as May, 1868—was put in practical use in the Boston Post-office in May and June, and his application for patent filed in September of that year.

The safe deposit structures which were in fact made earlier than these dates were those in which the single front frames covered a much *larger* number of boxes than *four*. Butler, who made them, says some had "*perhaps thirty boxes in a section*, and some *may* have had four or six only."

There was no suggestion in the safe deposit boxes of the use of *wooden boxes* at all, nor of making such *wooden* boxes secure by forming a series of metal fronts *for each separate box*, all of uniform size, which might be manufactured in quantities, and adapted at pleasure to fill and fit any space, and which when built up together would by the securing in juxtaposition of the single box fronts form a continuous metallic frontage for the whole (Renwick, p. 45, Q. 11).

Such was the state of the art prior to 1868, and we next inquire whether they *in fact* suggested to other inventors than Yale the result which he arrived at.

Two persons independently conceived of the desirability of protecting the fronts of post-office lock-boxes with metal, prior to the date of Yale's patent, and it is to be presumed that they were familiar with such ordinary structures as wooden lock-boxes and iron safe and safe deposit boxes.

These two persons were Peleg Clark, Jr., a mechanical engineer

and architect, of Westerly, R. I., and William L. Burt, Postmaster of Boston. What did they do?

Both these persons were evidently persons of more than ordinary competence for the specific work in question.

The first was not only a skilled mechanic and architect, but had special acquaintance with post-office work, for he was the superintending architect of the post-office at Westerly (p. 195, Q. 2), and the latter was postmaster of one of the largest offices in the country, and familiar with its needs, and had, moreover, the assistance, in attempting to construct metallic front boxes, of the post-office architect, Mr. Moore (p. 160, Q. 6).

Burt's experiment was made in May, 1867.

It was considered by the Court in *Yale Co. vs. Scovil Co.* (18 Bl., 248), and Judge SHIPMAN's summary of the evidence then accurately states what appears in this case.

It is contended now that Burt and Yale were *joint* inventors of the complete invention now patented, and certain additional evidence is introduced to endeavor to show that though Burt's first plan was in fact impracticable, yet that subsequently the plan now patented by Yale was developed, and that of it also Burt was entitled to the credit.

We shall later discuss such evidence and show that it does not modify the conclusion reached by Judge SHIPMAN. But it is sufficient now to point out that *whoever* made the invention here patented, whether Yale or Burt, did not make it *as an obvious suggestion* from the prior state of the art, but that notwithstanding all that was previously known about wooden lock boxes and iron safe boxes, yet *ever when the idea of the utility of a metal front* for wooden post-office boxes presented itself, such idea did not teach even the most intelligent constructor to form *separate* metal fronts for separate boxes, and obtain the necessary security by combining such fronts together in close juxtaposition, so as to obtain the necessary security with the least cost, and enable the fronts to be made in quantities without special design for any given location.

Burt, though he sought the resulting security of a metallic front, yet did not succeed in embodying that idea in a practical form in his first model, and it was only embodied in a practical form, whether by Burt or Yale, *as the result of a first failure.*

If such a course of events appear, it is conclusive upon the point that experiment and trial were necessary, and hence "invention" was exercised, in order to arrive at the result now patented.

But the conclusion that there was a necessity for "invention" is further strengthened by the fact that Peleg Clark, Jr., sought for and *missed* the same result.

His efforts were nearly simultaneous with those of Mr. Burt.

In July, 1867, he seems to have conceived of the desirability of protecting the front of post-office boxes with iron.

He seems to have made a drawing, which is not found, nor is any reproduction of it attempted. In this drawing, as he implies (p. 196, Q. 5; p. 196, Q. 3), there was shown "the entire front of iron." Doubtless it was a solid sash, pierced with holes to fill a whole bay or space at the post-office, as the old glass sashes had done, and as Burt's had been intended, for if it had been otherwise, or if there had been a suggestion or intimation in it of the combination of *separate metal* fronts to form a complete "frontage" it would doubtless have been called out and commented upon by the able counsel for the defendant.

But whatever this contemplated "entire front of iron" was, it did not even reach the state which Burt's did; it proceeded no further than a drawing, for it was *never made* (p. 198, x-Q. 22), Clarke assigning as a reason that (p. 196, Q. 5), "we hadn't time, and there "was *too much trouble about it* to bother for one post-office."

What in fact was made were merely *iron doors*, which were hinged *directly to the wooden pigeon-holes*, as shown in "Deft.'s Exhibit "Westerly Model" (p. 193, fol. 7), and the validity of Clarke's excuse for not making the "entire front of iron," that it was too much bother for one post-office, is seriously impugned by the fact that he subsequently furnished iron *doors* "for some ten to thirteen different "places" (p. 196, Q. 8), but he *never attempted an iron front*.

We must assume, therefore, either that Clarke is in error in stating that he ever had the idea of an iron "*front*" *at all*, as distinguished from doors, or else he decided that whatever construction of iron front he was able to conceive of was impracticable, as Burt's was found out to be, and he was *unable to devise* any practical form.

Nothing can more clearly evidence the element of thought and invention in Yale's construction than these very structures of Peleg Clarke's. He, too, was attempting to render the fronts of post-office boxes secure by metal, but Yale's idea did not occur to him, and in its place he constructed, for from ten to thirteen offices, structures which were absolutely useless to accomplish the result he aimed at, for if not easier it is perfectly obvious that it is as easy to pry off an iron door from a wooden box front or frame as a wooden one.

On this point Mr. Renwick says (p. 47):

"A. I have examined the exhibit referred to in the question; it "is a series of wooden pigeon-holes open at the rear, each provided "with a separate metallic door hinged to the wood of the boxes; "the exhibit shows no metallic frame of any kind, either protecting "or not protecting the wood ends, and that is a sufficient reason for "stating that the inventions of the first and second claims of the "Yale reissue are not represented in this exhibit. The doors of this "exhibit might easily be forced off or a chisel might be set in the "ends of the wood so as to pry off that part of the hinge which is "secured to the wood.

"I have examined the evidence of the witnesses referred to in the "question, and I find that they refer to a drawing as well as to the "model; I am not able to understand from the evidence exactly

" what that drawing was or represented, but supposed that it repre-
" sented such a structure as Defendant's Exhibit 'Wood Front
" Boxes,' except that the continuous and independent sash frame of
" that exhibit was represented as made of iron, with iron doors in
" it ; but the evidence is too vague and ambiguous to enable me to
" comprehend what the drawing was, or to base any opinion on it.

" The Westerly model proves that it was not so easy a matter as
" it might seem to make Yale's invention, because it shows a
" combination of iron and wood which would not effect the purpose
" which results from the use of Yale's contrivance. In my opinion,
" it required invention to make Yale's invention, in view of all the
" other structures referred to in the question, and an examination of
" the Westerly boxes, in connection with the safe deposit boxes and
" the wooden-door boxes, would rather have led him away than sug-
" gested his invention."

As an additional set of facts, strongly tending to show the exercise of "invention" on Yale's part, is to be noted the fact, stated by Mr. Towne (p. 76, Q. 7), that, though wooden post-office boxes, provided with a metal frontage, were wholly unknown until Yale introduced them, yet, as soon as Yale *did* introduce them, Safe and Deposit box makers sought to *appropriate the benefit of the idea* of such boxes, *but not till then.* If the idea had been "obvious" to safe-makers, or safe deposit box-makers, from their known work previous to Yale's invention, why did they not make this desirable structure *before*, and why only *afterwards* did they seek to benefit by it?

And again, the further fact stated by Mr. Towne (p. 76, Q. 9) is persuasive in the same direction, *to wit:* that, though a form of *wooden fronted* post-office box had been previously patented by a rival inventor, yet, when Yale had once introduced his metal fronted boxes, such rival inventor adopted Yale's idea and advertised his *transformed* box as "the Embodiment of American Utilitarian Ingenuity" (p. 77).

The *facts* therefore clearly point to the conclusion that invention *must* have been exercised by Yale in contriving and constructing the combination with a series of wooden post-office boxes of a series of metallic doors and frames, so arranged, with reference to the boxes and each other, as to present on the outside a continuous metallic frontage.

In *Merwin on Patentability* it is said (p. 33):

"To preclude invention not only must *all the facts* involved be
" known, but they must be *so* known in relation *to the subject* in hand
" that they would *presumably be present* to the mind of *any instructed*
" *person so soon* as he directed his attention to the subject."

Surely Mr. Burt and Mr. Clarke were "instructed persons;" but the patented contrivance was not "present to their minds," though they were working at the "subject in hand."

We next turn to the question whether what Yale did, in point of *law*, amounted to *invention*.

(b) YALE EXERCISED WHAT AMOUNTED IN LAW TO INVENTION.

We submit that it is clear that it did. True, in a certain sense his invention consisted in a change of material, but it was *not* a *mere* change of material. It was a change of material *accompanied by and embodied in a change of construction.*

It was a change of material, accompanied by a change of construction, which was founded upon a thought or idea not apparent in iron pigeon-holes in safes, or iron safe deposit boxes, and which resulted in the adaptation of metal fronts to the uses of post-office boxes; making them cheap, cleanly and easy to construct in quantities, ready fitted to be combined and set up in any location; and conferred upon wooden post-office boxes the practical security of safes without the accompanying expense, while it at the same time conferred upon boxes with wooden doors the quality of greater compactness.

The prior single iron boxes, in safes, were clearly not a combination of separate iron fronts with wooden boxes, and conveyed no suggestion of the possibility or utility of such a construction.

The safe deposit iron boxes, closed at the rear and, with a single front covering a large number of the apertures, was not a combination of wooden pigeon-holes with separate iron fronts grouped together so as to protect the wood-work and permit its use; thereby permitting cheap boxes, and supplying them with cheap and secure fronts, and enabling the front to be manufactured in quantities and kept in stock, adapted to be set up and grouped together in any location.

The wooden post-office boxes, with wooden doors or with iron doors, contained no element of required security and no combination of separate fronts so as to form a continuous metallic frontage.

Yale's device is founded upon a novel idea, to wit: by a simple construction or change in construction from prior devices, to obtain practically the security of metal boxes, while he in fact avoided their expense and inconveniences; and made possible the establishment, as an industry and branch of trade, of the manufacture of metallic-fronted boxes, adapted to be located in any position (see Renwick, p. 47, Q. 12).

Is not this clearly invention?

"A patentable improvement is one which would not naturally be "inferred from the state of the art by one who was familiar with it. "The state of the art may be regarded as the premises, and the im- "provement as the conclusion.

"If the conclusion follows naturally—that is, if the improve- "ment is such as *any one* instructed in the art might be expected to "make, then it is not invention.

"But if there is a logical gap between the premises and the con- "clusion, then the improvement is patentable, for invention was re- "quired to bridge the gap—to perceive a conclusion not warranted "by the premises, *although after the conclusion has been reached* the

" connection between it and the premises becomes apparent, and, in-
" deed, often seems obvious " (*Merwin on Patentability*, p. 69).

Taking this statement as an accurate one of the qualities which *in law* constitute invention, let us apply them to the present case,

The improvement in the present case did not consist of making a post-office box of wood with a metal front, in the same way as prior boxes had been made of wood with wooden fronts, or of iron with iron fronts.

But the patentee in the first place conceived of the utility of combining wood and metal in the structure, and then devised a form of doing it which was different from any that had beeen previously attempted.

It did not " naturally follow," because it was obvious that what could be made of wood could also be made of metal or *vice versa;* that a practically efficient form of post-office box could be made, so as to secure the benefits of both materials, when desirable, and dispense with each at those points, when their use was disadvantageous, nor that a new industry could be founded for the manufacture of metal fronted post-office boxes, based upon the conception that wood, for the purpose in question, could be made as efficient and safe as iron, by protecting the front of the wood by the combination of a series of small fronts arrayed in such close juxtaposition, that though separately small and readily handled, yet when combined they formed a continuous metallic frontage; nor that by the use of metal the size of post-office boxes could be so reduced as to secure greater compactness, thereby saving labor in sorting the mail and economy of space in holding it.

Postmaster Burt " naturally followed," where the state of the art directed, and he made a large sash of iron to cover the front of a series of boxes just as the wooden sash or frame covered the wooden series of boxes or the iron frame covered a large group of iron deposit boxes, but his attempt proved useless and abortive.

The idea of the Safe Deposit Company's boxes was the same as Burt's, the single fronts were large and each was made to cover *as many boxes as possible*, sometimes *forty* (Foster, p. 200, Q. 6), or *thirty* (Butler, p. 206, Q. 10), or, as calculated from sizes given, *twenty-four* or *twenty-six* (p. 46, fol. 79), and *if* some fronts were made which covered a smaller number, even as few as five or six [as Mr. Butler, though not Mr. Foster, says there *may* have been] (p. 206, Q. 10), yet this was done, not with the idea originated by Yale, of building up a large and continuous frontage by the combination and juxtaposition of small, easily made and readily handled separate frames or fronts, but simply because certain irregularities in the safe deposit vaults to be filled made it necessary to form certain exceptional and perhaps irregular fronts, " in order to fill out and " complete the size of the vault " (p. 205, Q. 6, and p. 206, Q. 10).

A few cases may be cited from many to be found in the books, in which patents have been sustained where the novelty in changes from

prior structures and the value of the results were much less important than in the present case.

In *Wooster vs. Blake* (8 F. R., 432) the inventions in question consisted of comparatively slight changes in prior existing machines for making ruffles. One of its changes was the use with the ruffling blade working above the cloth plate, of a separator plate which had been previously used by one Arnold with an under feed ruffler, but with the inferior results that, with an under feed, the progress of the work could not be seen or so properly directed by the operator.

Judge BLATCHFORD held the patents valid, saying: "Much is said "in the evidence on the part of the defendants as to the obvious "character of this or that arrangement, and that any mechanic "would know enough to do this or that.

"This is the often-repeated story in belittling inventions. The "invention consists primarily in finding out what mechanical opera- "tion is necessary to produce the practical result arrived at. When "such operation is hit upon the mechanical work is easy. It is "easy, when the mechanical operation is seen, to say that it was "obvious that certain mechanical arrangements would effect it, but "mechanical arrangements are tried and tried in vain to reach a "practical result, because the mechanical operation which is to "effect such result is not yet seen.

"What is contended for is that it requires no invention to pass "from Arnold to Robjohn. The evidence shows the contrary. The "results following the change are very marked and give to the "change the character of invention as distinguished from ordinary "skill."

So here experiments of at least two inventors prior to Yale failed to yield any result until Yale suggested the true solution of the problem, and the "results following" Yale's changes are very marked, and give to the change the character of invention.

In *Loom Company vs. Higgins*, 105 U. S., 591, the letters patent in suit were for an improvement in looms for working fabrics, this Court held the patent was valid, and in disposing of the various defenses in the opinion of the Court, Justice BRADLEY says:

"It is further argued, however, that, supposing the devices to be "sufficiently described, they do not show any invention; and that "the combination set forth in the fifth claim is a mere aggregation of "old devices already well known, and therefore it is not patentable. "This argument would be sound if the combination claimed by "Webster was an obvious one for attaining the advantages proposed "—one which would occur to any mechanic skilled in the art. But "it is plain from the evidence, and from the very fact that it was "not sooner adopted and used, that it did not, for years, occur in "this light to even the most skillful persons. It may have been "under their very eyes; they may almost be said to have stumbled "over it; but they certainly failed to see it, to estimate its value, "and to bring it into notice. Who *was* the first to see it, to under- "stand its value, to give it shape and form, to bring it into notice

" and urge its adoption, is a question to which we shall shortly give " our attention. At this point we are constrained to say that we " cannot yield our assent to the argument that the combination of " the different parts or elements for attaining the object in view was " so obvious as to merit no title to invention. Now that it has suc- " ceeded it may seem very plain to any one that he could have done " it as well. This is often the case with inventions of the greatest " merit. It may be laid down as a general rule, though perhaps not " an invariable one, that if a new combination and arrangement of " known elements produce a new and beneficial result, never at- " tained before, it is evidence of invention."

In *Miller vs. Pickering*, 16 F. R., 540, the alleged invention was a spring made of a bar of metal of requisite form, which is rolled *on its edge* with the shape of a coil around a mandrel. The necessary effect was to increase the vertical thickness of the inner edge of the bar. The claim was for a coiled edge-rolled spring, the inner edge of which is of greater thickness than the outer edge, substantially as set forth.

The respondents denied that the complainant's patent possessed any patentable merit, and contended that for more than thirty years it had been a matter of common knowledge that whan a bar of iron or steel is edge-rolled, the edge nearest the mandrel will upset or thicken.

Judge McKennan (Judge Butler concurring) said (p. 541): "It " is urged that, as edge-rolling of metals and spiral springs were " well known in the arts before the date of the patent in question, " the alleged invention described in it is without patentable merit. " This is sufficiently answered by the facts that Pickles was the first " to conceive the idea of constructing a spring of the peculiar form " described in his patent, whereby improved results were accom- " plished, and that the public had attested its superior utility and " value by adopting it instead of the other springs then in use. " These facts imply the exercise of sufficient inventiveness to sustain " a patent." So in the present case "improved results" have followed Yale's plan, and public approval has attested its worth.

In *Streeter vs. Davis*, 16 F. R., 564, the invention related to tips for the insoles of boots and shoes, and the patent was for the tip formed of muslin or other textile fabric stiffened with shellac, and pressed into the required shape by heated dies.

The defendants denied patentable novelties in view of prior tips of vulcanized rubber and leather.

Judge Wallace sustained the patent, saying:

" Neither a leather tip or vulcanized rubber tip is the same thing " as a tip of muslin or similar textile material stiffened with shellac. " The complainant's tip was therefore new, undeniably it was useful. " It was, therefore, the proper subject of a patent, unless the substi- " tution of the muslin and shellac for leather or vulcanized rubber " was such an obvious thing to persons skilled in the art that it did " not involve invention. This is always a question of fact. In this case

" it would not be the least doubtful were it not that there was noth-
" ing new in pressing by heated dies, muslin or similar textile material
" coated with shellac, into such form and shape as was desired.
" But it was not obvious that when muslin coated with shellac might
" be pressed by dies into the shoe tip, the beveled configuration
" could be dispensed with, and that a serviceable, practical article
" could be produced. The circumstances that the value of the new
" article was immediately recognized, and that it supplied a want
" long felt, but not before met, should have due weight, and in this
" case go far to resolve all doubts in favor of the sufficiency of the
" invention."

So here, it was not obvious when metal was substituted for wood for the frontage, or when wood was substituted for metal for the boxes, either that the fronts could thereby be separately made, or when so separately made could be adopted for any position, in series of any number, or that the size of lock-boxes could be thereby reduced, or that such reduction would result, as it did do, in throwing their use open to the general public, or that economy of labor in sorting or of space in holding the mail could be secured, or that " a serviceable, practicable article could be produced " by the changes made by Yale in construction and material.

In the case of *Smith vs. Goodyear Dental Co.* (93 U. S., 486), the patent was for the substitution, as a base plate for artificial teeth, of hard rubber for gold, silver, gutta-percha, and other articles, the teeth being imbedded in the gum when plastic, and the plate afterwards vulcanized.

The advantages of substitution were, obviation of crevices between teeth and gums (found with other material) lightness, greater yielding and cheapness.

The Court (STRONG, J.), after discussing (among other cases) *Hotchkiss vs. Greenwood*, said :

" It does not decide that no use of one material in lieu of an-
" other in the formation of a manufacture can, in any case, amount
" to an invention, or be the subject of a patent. If such a substitu-
" tion *involves a new mode of construction*, or develops new uses
" and properties of the article formed, it may amount to invention.
" The substitution may be something more than formal. It may re-
" quire contrivance, in which case the mode of making it would be
" patentable ; or the result may be the production of an analogous
" but substantially different manufacture. This was intimated very
" clearly in the case of *Hicks vs. Kelsey*, 18 Wall., 670, where it was
', said : ' The use of one material instead of another in constructing
" ' a known machine is in most cases so obviously a matter of mere
" ' mechanical judgment, and not of invention, that it cannot be
" ' called an invention, unless some new and useful result, as increase
" ' of efficiency or a decided saving in the operation be obtained.'
" But where there is some such new and useful result, where a
" machine has acquired new functions and useful properties, it may
" be patentable as an invention, though the only change made in

" the machine has been supplanting one of its materials by another. " This is true of all combinations, whether they be of materials or " processes."

Here the very conditions called for by this Court are found to exist.

The " substitution " of metal for wood, as the front of wooden boxes involved " a new mode of construction," *i. e.*, the breaking up of the front into small separate parts capable of ready and cheap manufacture and indefinite forms of combination ; and the substitution of wood for the iron that had been used in the safe deposit boxes, " developed new uses and properties of the article formed," *i. e.*, the box was converted from an iron safe, too expensive and difficult to construct, to be used for a post-office, into a cheap and cleanly *post-office* box with all the necessary degree of security combined with compactness, thus resulting in a clear " increase of efficiency " and a " decided saving in the operation."

In *Hobbs vs. King* (8 F. R., 91), the patent was for glass vessels for measuring, which were graduated on their *inner* surfaces.

Similar vessels had been previously made which had been graduated on their *outer* surfaces.

The Court (ATCHESON, J.) held the patent valid on the ground that inside graduations secured greater accuracy and uniformity, owing to the method of production.

In *Rogers vs. Sargent* (7 Blatch., 507) the patent was for a wire staple for window blinds, having the legs of the staples roughened by corrugations of such shape that they could be made in quantities by machinery by the action of dies.

Staples had been previously made with the legs barbed by a chisel, but the roughening was of such a character that the use of machinery in their manufacture was impracticable.

Judge BLATCHFORD held the patent valid, saying : " The reissue " specification states that the patentee desires to obtain for the " staples a patent as for a new manufacture ; as his invention con- " sists in the production of a vendible article ; and that its shape is " to be such that it can be readily and rapidly made by machinery, " so that it can be produced in great quantities, and kept for sale in " the market as an article of merchandise.

" It is as such new manufacture or commodity, that the staple " adapted for such use, and constructed substantially as described, " must be held, under the clause, to be a patentable invention, if " the claim is to be upheld at all.

" The evidence shows that the patented staple could not be " made by hand at a price which would admit of its profitable manu- " facture ; that the sale of it, made by dies by machinery, has been " very great, and that it has altogether superseded the nonserrated " staple before used for blinds. In view of these facts, I think the " reissued patent is valid and the claim sustainable in law."

In *Forbush vs. Cook* (2 Fish., 668), Judge CURTIS said : " It is de- " cisive evidence, though not the only evidence, that a new mode of

" operation has been introduced, if the practical effect of the inven-
" tion is either a new effect or a materially better effect, or as good
" an effect more economically attained by means of the change made
" by the patentee. A new or improved or a more economical effect
" attributable to the change made by the patentee in the mode of
" operation of existing machinery proves that the change has intro-
" duced a new mode of operation which is the subject matter of the
" patent."

In *Eames vs. Cook* (2 Fish., 146), Judge SPRAGUE said :

" If a materially different result is reached, it is evidence of some
" new cause or means, *although the mechanism may apparently be sub-*
" *stantially the same.* Hence, a greater degree of utility being
" achieved by one machine is evidence, and somtimes conclusive evi-
" dence, of novelty in the means or instrumentality which are used."

In *Waterbury Co. vs. New York Co.* (3 Fish., 43), Judge INGERSOLL said :

" The results produced constitute the several kinds of evidence
" which may be relied upon with some degree of certainty in order
" to ascertain whether the same means are used. * * * If like
" results cannot be produced by two separate devices, it is good
" evidence to consider in determining whether the means are the
" same, because, as a general rule, like results are produced by like
" means, and, if like results are not produced by two separate de-
" vices, it is fair to infer that the means may not be alike in kind or
" character."

In *Parker vs. Stiles* (5 MacLean, 44), Judge LEAVITT said :

" The previous use of a structure bearing some resemblance in
" some respect to the invention of a patentee, and which might have
" been suggestive of ideas or have led to experiments resulting in
" the discovery and completion of his invention, will not invalidate
" his claim under his patent."

THE INVENTION CLAIMED WAS MADE BY LINUS YALE, JR., AND NOT BY WM. L. BURT.

Much of the evidence upon the question, of who originated the invention in question, is the same as was considered by the Court and passed upon in *Yale Co. vs. Scovil Co.*

It will be sufficient to again cite the decision of the Court in that case, and then show that the new evidence in this case does not justify any modification of the decision.

Judge SHIPMAN said :

" In May, 1867, Gen. William L. Burt, the Postmaster of Boston,
" conceived the idea of a number of wooden boxes furnished with
" metallic doors and frames for each box, with the rest of the wooden
" front covered or veneered with a continuous metal casing. He

" caused a plan to be prepared for a box in the Boston Post-office, " which plan clearly showed his idea.

" A casting of the metallic front was made from this plan, and " was delivered to General Burt, and was sent to the plaintiff to be " fitted with doors and locks.

" This continuous metallic frame or front was discarded on ac- " count of its actual or supposed impracticability, and in its stead " Mr. Yale invented the improved box-front for a series of boxes, " which was subsequently patented by his administrator, and with " which the Boston Post-office was supplied. So far as is disclosed " by the evidence the Burt box-frame was never used in a post-office, " and was merely experimental. It originated the invention, but " there is no evidence which can justify a finding that Burt was the " inventor."

The new evidence in this case consists of the following :

In support of defendant's views the testimony of Lewis and others connected with the post-office in Boston in 1868, showing that the wood-work of the boxes actually put and which are described in Yale's patent was constructed in Boston and not at Yale's factory. This, we suppose, is intended to support a theory that the idea of combining the fronts with wood was not Yale's.

But this is of no importance, for it is expressly admitted that the metallic fronts as sent on by Yale were obviously intended for application to wooden boxes and not iron ones.

Lewis is asked (p. 170, x-Q. 72-74) :

72 x-Q. Would it have been practical to have made the sections of pigeon-holes out of metal of the thickness required by the construction of these fronts ?

(Objection.)

A. No, sir ; it would not.

73 x-Q. The fronts, then, as they were delivered to the Boston Post-office, were obviously constructed to be applied to sections of wooden pigeon-holes ; is that so ?

A. Yes, sir.

74 x-Q. Did any change have to be made in the fronts in order to apply them to the wooden pigeon-holes so as to make a continuous metallic frontage when they were put up in the position ?

A. No, sir.

The only other evidence is the production of a letter said to have been sent by Yale to Burt, dated March 17, 1868 (p. 267).

No proof is offered as to this letter, except the handwriting, or how it came into the possession of the defendant, or whether the letter was ever in fact sent or not.

The only evidence about it is the statement of one Tyler, to whom first the signature and then the letter was shown (p. 36, x-Qs. 133–134, and p. 56, x-Q. 233). " I should say it looked like his hand " (Q. 133). I should think it was ; I ain't expert enough to tell ; it " looks like it (Q. 134). Well, I should say that it was his letter (x-Q. 233)."

But assuming it to have been sent what does it prove? Mr. Burt had evidently prior to its date sent to Mr. Yale his impracticable front.

This front was provided with doors of some kind (p. 168, Qs. 44 46), as shown in the Moore drawing; such doors either actually had glass or were intended for the reception of glass and locks. *But it had no contrivance for fastening to pigeon-holes* (p. 168, Q. 52).

Yale appears to have said, in this letter, as follows (the *italics* are ours):

"Yours of 13th inst. has been forwarded to me and I would reply. I presume the Supt. will send you *another door made by hand*, though they cost at least three prices, and we will avoid it if possible. We have done *a great deal of experimenting* on this thing already as you must be aware, and that brings me to the subject of your second paragraph. I do not anticipate trouble about the Bramble pat., and only wish to say I claim only the manner of fastening in the frame to the wood-work, which I have no doubt you will allow as mine. I had already consulted my patent solicitor, H. B. Renwick, of this city, as to the feasibility of patenting the manner of fastening in simply, and am informed it can undoubtedly be patented. The matter of a metal door with glass, and locked, I, of course, have no claim to. You sent me such a door to put locks on, so you are ahead of *me* at least on that point. I do not write this to interfere at all with your application, but must insist on my claim to the manner of fastening to the shelves and partitions. Hoping nothing of the above may be misconstrued,

I am, very respectfully,

LINUS YALE, JR.

At what stage in Yale's experiments this letter was written does not appear. It certainly seems that he had proceeded no further than attempting to make a satisfactory *door* for Burt's *old continuous frame*, and that even that was still wanting approval; and that he had devised *some* mode of fastening *that* frame into place, but what, is not described.

Burt had laid claim to be the inventor of something, and Yale repelled his claim to *all* that had been done, asserting that though Burt had sent him "a metal door with glass and locked," and was "ahead" of him on that point, yet that he, Yale, was the inventor of the mode of fastening.

Whether this statement of Yale's refers to his invention of a manner of fastening, by securing *separate* fronts in each pigeon-hole, as subsequently described in his patent, cannot be told, for it may relate to some earlier device, afterwards abandoned, of attempting to secure Burt's *solid* front.

But let it refer to either, and it is not inconsistent with the claims in the present case.

Yale never did claim, and the reissue does not now claim that he

was the first inventor of "a metal door with glass in it," and provided with a lock. Such a broad claim would obviously be lacking in novelty, whether Burt had or had not sent the continuous frame to him, which embodied these features.

So much Yale clearly implies; but he does clearly claim "the manner of fastening," and whether he supposed at the time that he could patent broadly the "*manner of fastening*" a metal frontage to wooden pigeon-holes *by breaking up the whole frontage into a series of small fronts, each fastened to its own wooden pigeon-hole*, as Judge SHIPMAN sustained him in doing, or only the particular way of uniting the frames, is quite immaterial.

The Court, in the *Scovill Co.* case, said that the first stated invention "was plainly the subject of, but was not fully secured by his original patent," and we must conclude therefore that this was the same invention, if he had then advanced far enough in his experiments to make it, which he alludes to in his letter of March, 1868; and though, perhaps, he had made at the date of said letter, and even at the date of his original application, only a vague statement to himself, of the really essential features of his invention, as is often the case with inventors, yet that ought not to prejudice his rights, if those essential features can be now seen, as through the obscurity and even errors of language the Court has held can be "*plainly*" done.

As was said in *Welling vs. Albright*, 7 O. G., 607: "It may be "conceded that the full extent of his invention had not then dawned "upon him. Men often build better than they know; but when the "fair interpretation of the words employed to describe an invention "or discovery includes matter not in the mind of the patentee at the "time, he is as fully authorized to claim the unlooked-for as he is "the anticipated results."

See also *Roberts vs. Ryer*, 1 Otto, 150; and *Stow vs. City of Chicago*, 14 Otto, p. 547.

It may, we think, be said, with all confidence, that it would be a perversion of justice to deprive the assignees of this invention of the benefit of the invention, upon the doubtful construction of a letter written by the inventor at some early stage of its progress, and which, at most, can be said only to show an incomplete appreciation of its scope. There is certainly not the slightest evidence in this case, any more than there was in the *Scovil* case, that Mr. Burt ever conceived of the invention described in Yale's original application of a continuous metal frontage for a bank of wooden pigeon-holes, formed by the combination in juxtaposition of separate frames and fronts, adapted to overlap and protect the wood-work.

Turning now to the evidence on behalf of the complainant, we find some evidence which tends to strengthen the conclusions in the *Scovil* case.

The evidence of Mr. Towne, though based upon the statements of Burt rather than upon original knowledge of the facts, presents

the matter in its true light, and is fully borne out by the facts proved.

Mr. Towne says (p. 81, Q. 14):

"Q. 14. Did you learn in your interviews with Gen. Burt, and "your negotiations about his claims, upon what such claim on his "part was based; if so, please state the same?

"A. Chiefly upon the fact that he had conceived the idea of "fitting up his post-office at Boston with lock-boxes having metallic "faces or fronts, and that in the effort to put this idea into practical "form, he had employed some one to make a drawing and a model "of a section of such boxes; Gen. Burt, I discovered, was not ex-"perienced in matters of invention and patents, and did not clearly "understand what constitutes invention in the sense used in patent "practice. The fact was that the drawing and model referred to, as "made by his direction, embodied an inoperative and impracticable "device, and that having reached this point, he then submitted his "scheme to the late Linus Yale, Jr. The primary object of this was "to have his device provided with locking mechanism. In at-"tempting to provide this, Mr. Yale at once discovered that no "space had been provided on the doors adequate to receive the "locking mechanism, and he therefore reconstructed the door to "remedy this vital defect. Having done this, he next designed a "new and practical frame to enclose the door in place of the im-"practicable frame shown in model sent by Burt; the outcome of "this process was the evolution by Yale of the metallic-fronted "lock-box, afterwards adopted by Burt for the equipment of his "post-office at Boston; in my interviews with General Burt it was "always apparent that he regarded his conception of the project of "having metal-fronted lock-boxes as a fully-fledged invention, and "that he regarded the work done by Mr. Yale in designing and mak-"ing the practical details of the door and frame as simply the work "of a mechanic in his employ; it was upon this view of the events "which led to the invention of the box in question that General "Burt based his claim to be its inventor."

This is confirmed by the fact that Moore and Lewis, defendants' witnesses, describe the frame made by Burt, and Lewis shows that it was impracticable.

Yale's letter to Burt of March, 1868, shows that Burt sent it to him to have locks put on, as Mr. Towne says; and the same letter shows that "a great deal of experimenting" was required to provide it with doors.

Nothing was ever really done with it (p. 34, Q. 110), but Mr. Yale then made "a metal door and front, single" (Q. 111).

Add to this the fact that Mr. Tyler shows that as early as 1864, Mr. Yale had conceived of and caused to be made an experimental box having a metal front, and the presumption in Yale's favor is most persuasive. It is but fair to concede that Tyler's recollection of the details of the box is uncertain (p. 39, x-Q. 170), and it is difficult te reconcile the existence of anything but an experimental

box at that date with the Yale-Burt letter of March, 1868, but making all these concessions, and allowing for the possibility of some confusion in Tyler's recollection of the details of this drawing and experiment with more recent work, yet it remains true that the witness appeared to be perfectly honest in his statements, and is confirmed by the entry in his book of Nov. 8, 1864, that a model for a post-office box was then made, and it must be concluded, therefore, that long before any conception on the part of Burt, Yale's attention had been turned to the matter of metal-front post-office boxes in some form, and that a separate structure of a single box in which wood and metal were combined in some way had been experimented upon by him.

The further very persuasive circumstance is added, that when all the facts and circumstances of the claim on the part of Burt and the acts of Yale were fresh, and though there was every inducement to conciliate Burt and secure his assistance, yet the decision was that Yale was the true inventor (see letter J. B. Yale to Burt, Feb. 4, 1870, p. 114), and though at one time it had been determined to have the administrator of Yale concede priority to Burt (p. 83, Q. 16), yet upon acquiring all the interest of Burt in his application, as was done by the assignments of July, 1870, and submission of the facts to counsel, it was determined that Yale was the true inventor, and the patent was taken out in his name (p. 94, Q. 83).

The presumption that the inventor named in the patent was the true inventor is, therefore, strengthened by all the facts as proved:

1. By the absence of *any* proof that Burt ever planned or made, or directed the making of a sectional front of any kind.

2. By oath of Yale to his application; in which application the invention is to be "plainly seen," though obscurely stated.

3. By Tyler's evidence that the conception of the sectional metal frontage was Yale's.

4. By Towne's evidence, based on the nearly contemporaneous negotiations with Burt, that Burt's claim was based solely on the fact that he had designed the original solid metal front.

5. By the action of the complainant company, acting under the advice of counsel when all facts and circumstances were fresh, and when the name of the inventor to whom the patent was issued was immaterial, because it owned both applications.

As it has been already decided, after reviewing all the facts in this present case, that Yale and not Burt was the inventor of the improvements in the patent, it is almost superfluous to add authorities on general principles of law; but for the sake of completeness, considering the subject, we note the following:

"Suggestions from another in order that they may be sufficient "to defeat a patent subsequently issued, *must embrace the plan of* "*the improvement*, and must furnish such information to the persons "to whom the communications are made; that they will enable an "ordinary mechanic, without the exercise of any ingenuity and

" special skill on his part, to construct and put the improvement in " successful operation."

Agawam Co. vs. Jordan, 7 Wall., 583.
Putnam vs. Hickey, 5 Fish., 334.
Matthews vs. Skates, 1 Fish., 602.
Alden vs. Dewey, 1 Story, 336.
Thomas vs. Weeks, 2 Paine, 92.
Dixon vs. Moyer, 4 Wash. C. C., 68.
National F. S. Co. vs. Hibbard, 21 O. G., 635.

" Although the idea of the invention and hints concerning it " came to a patentee from others, still if *he was the first who gave* " *to that idea a useful and practical form*, his rights are not to be de- " feated."

Teese vs. Phelps, 1 McA., 48.
Bell vs. Daniels, 1 Fish., 372.
Spaulding vs. Tucker, Deady, 649.
Macmillan vs. Barclay, 5 Fish., 189.

" If the suggestions simply aided the inventor in arriving at the " useful result, but fell short of suggesting an arrangement that " would constitute a complete machine, and if after all the sugges- " tions, there was something left for him to devise or work out by " his own skill and ingenuity in order to complete the arrangement, " then he is in contemplation of law to be regarded as the first and " original discoverer."

Pitts vs. Hall, 2 Blatch., 229.

" It is not the man who may form an imperfect machine which " may suggest to a higher and more practical order of mind valuable " ideas, but the man who embodies those ideas in a practical and " working form, whom the law protects."

Pitts. vs. Edmunds, 2 Fish., 52.

THE DEFENDANT IS LIABLE AS AN INFRINGER IN THE PRESENT ACTION.

The defendant seeks to avoid responsibilities in this action on the ground that he is an officer of the Government and that the infringing contrivances are the property of the Government, and that he uses or used the infringing contrivances in the course of his official duties.

If the second claim be construed as we contend it should be there is no dispute but that the structure used is an infringement. This is fully proved by the witnesses on behalf of the complainant (p. 17, Q. 8), and is admitted by the expert for the defendants (p. 247, x-Q. 24).

This Court has settled the law that "the Government cannot, "after the patent has issued, make use of the improvement any more "than a private individual without license of the inventor or making "compensation to him."

U. S. vs. Burns, 12 Wall., 246.

In *Cammeyer vs. Newton* (94 U. S., 225), this Court held that "agents of the public have no more right to take such private "property (patent property) than other individuals under that pro- "vision, as it contains no exception warranting any such invasion of "the private rights of individuals. Conclusive support of that "proposition is found in the recent decision of this Court in which "it is held that the Government cannot after the patent is issued "make use of the improvement, any more than a private individual, "without license of the inventor or making compensation."

These two cases do not expressly decide that where the Government by its agents infringe upon a patent, such agents can be held liable by a suit for infringement.

In *Campbell vs. James*, (17 Blatch., 43), the point was, however, directly ruled by Judge WHEELER, saying:

"One ground upon which the defendant claims he does not in- "fringe is that in all he has done he acted as the officer of the gov- "ernment in the performance of his duties for the benefit of the "government, and that the monopoly granted in granting the "patent did not extend to nor cover any use by the government. "But the exclusive use of the invention granted to the patentee is "property, and this property is now owned by the plaintiff. The "grant saved nothing for the use of the government. It was ex- "clusive, absolutely throughout the United States. It was granted "by express law of Congress pursuant to the constitution, without "which it could not exist. But all property is upheld by law, "either expressly or impliedly enacted or adopted, all of which is "the law of the land, the same as the statutes upholding patents "are. This is exempt from being taken for public use without just "compensation by the supreme law of the land. Nor can it be so "taken by any officer, at will, in time of peace, leaving the owner to "seek compensation (*Mitchell vs. Harmony*, 13 How., 115). The "property in a private invention stands the same as other property "in this respect (*United States vs. Burns*, 12 Wall., 246; *Cammeyer "vs. Newton*, 94 U. S., 225)."

Campbell vs. James, was reversed in this Court on other grounds, and a doubt expressed whether the only remedy might not be in the Court of Claims against the Government.

In the case of *Forehand vs. Porter*, 15 F. R., 256, in which the defendant was the master armorer of the United States Armory at Springfield, Massachusetts, and as such master armorer had used for armory purposes two kinds of cartridges, one of which, the cup

anvil cartridge, was decided to be an infringement of the first and second claims of the patent in suit.

His Honor Judge SHIPMAN, having decided the infringement, says:

"I do not definitely understand that *Campbell vs. James*, 104 "U. S., 356, definitely decided that a bill in equity will not lie "against an officer of the United States for his unauthorized use of "a patent solely in the service of the Government.

"Let there be a decree for an accounting in conformity with "this opinion."

In *United States vs. Lee* (106 U. S., 196), this Court held that the exemption of the government to suit was "limited to suit against "the United States directly and by name, and cannot be successfully pleaded in favor of officers and agents of the United States "when sued by private persons for property in their possession as "such officers and agents. In such cases a court of competent "jurisdiction over the parties before it may inquire into the lawfulness of the possession of the United States as held by such officers or agents, and give judgment according to the result of that "inquiry."

In *Louisiana vs. Jumel*, 107 U. S., 726, this Court said:

"In *U. S. vs. Lee*, 106 U. S., 196, it was held that the officers of "the United States, holding in their official capacity, the possession "of lands to which the United States had no title, could be required "to surrender their possession to the rightful owner, even though "the United States were not a party to the judgment under which "the eviction was to be had."

In *Tracy vs. Swartwout*, 10 Pet., p. 94, it was said:

"Where a ministerial officer acts in good faith for an injury done, "he is not liable to exemplary damages; but he can claim no further "exemption where his acts are clearly against law."

In *Poindexter vs. Greenhow*, 114 U. S., 287, it was said:

"Another class of cases is where an individual is sued in tort for "some act injurious to another in regard to person or property, to "which his defense is that he has acted under the orders of the "Government. In these cases he is not sued as, or because he is, "the officer of the Government, but as an individual, and the Court "is not ousted of jurisdiction because he *asserts* authority as such "officer, and in illustration of this principle reference was made to "*Mitchell vs. Harmony*, 13 How., 115; *Bates vs. Clark*, 95 U. S., 204; "*Meigs vs. McClung*, 9 Cranch, 11; *Wilcox vs. Jackson*, 13 Pet., 498; "*Brown vs. Huger*, 21 How., 305; *Griser vs. McDowell*, 6 Wall., "363, and *United States vs. Lee*, 106 U. S., 196. The *ratio decidendi* in this class of cases is very plain. A defendant sued as a "wrongdoer who seeks to substitute the State in his place or to "justify by the authority of the State, or to defend on the ground "that the State has adopted his act and exonerated him, cannot rest

" on the bare assertion of his defense, he is bound to establish it. " The State is a political corporate body, can act only through " agents, and can command only by laws. It is necessary, therefore, " for such a defendant in order to complete his defense, to produce " a law of the State which constitutes his commission as his agent " and a warrant for his act. This the defendant, in the present " case, undertook to do * * * and that law made it the duty of " the defendant to receive the coupons tendered in payment of " taxes and declared every step to enforce the tax thereafter taken, " to be without warrant of law and therefore a wrong. He stands " then stripped of his official character and confessing a personal " violation of the plaintiff's rights for which he must personally " answer, he is without defense."

In *Hagood vs. Southern*, 117 U. S., p. 70, it was said:

" A broad line of demarcation separates from such cases as the " present, in which the decrees require, by affirmative official action " on the part of the defendants the performance of an obligation " which belongs to the State in its political capacity, those in which " actions at law or suits in equity are maintained against defend- " ants, who, while claiming to act as officers of the State, violate " and invade the personal and property rights of the plaintiffs under " color of authority, unconstitutional and void. Of such actions at " law for redress of wrong, it was said by Mr. Justice MILLER, in " *Cunningham vs. Macon and Brunswick R. R. Co., ubi sup.:* 'In " these cases he is not sued as or because he is the officer of the " Government, but as an individual, and the Court is not ousted of " jurisdiction because he *asserts* authority as such officer. To make " out his defense, he must show that his authority was sufficient in " law to protect him,' p. 452. Of such cases, that of the *U. S. vs.* " *Lee*, 106 U. S., 196, is a conspicuous example, and it was upon this " ground that the judgment in *Poindexter vs. Greenhow*, 114 U. S., " was rested. And so the preventive remedies of equity by injunc- " tion may be employed in similar cases to anticipate and prevent " the threatened wrong where the injury would be irreparable, and " there is no plain and adequate remedy at law, as was the case in " *Allen vs. B. & O. R. R. Co.*, 114 U. S., 311."

See also

Adsit vs. Brady, 4 Hill, 632.
Keenan vs. Southworth, 110 Mass., 474.

THE ASSIGNMENT OF YALE'S ADMINISTRATOR:

There are two assignments from Silas N. Brooks, administrator of Linus Yale, Jr., to the Yale Lock Manufacturing Company, in evidence (Rec., pp. 319 and 321). The defendant appears to object to the last assignment only, and to that on the ground that he has

no knowledge or belief and no information except from the bill whether or not the allegations in the bill respecting the assignment are true, and leaves the complainant to the proof thereof, and alleges that, the heirs at law of said Yale should have been made parties to the bill.

If the entire title passed by the assignments, the heirs at law of Yale should not have been made parties to the bill.

In the body of the instrument Silas N. Brooks is described as the administrator of the estate of Linus Yale, Jr., deceased, and "the said Silas N. Brooks as aforesaid" assigns all his right, title and interest, and signs the assignment, "Silas N. Brooks, Admr. of the estate of Linus Yale, Jr., deceased," and affixes his seal.

That he had a right to assign as administrator there is no doubt.

Sec. 34, Act of July 8, 1870, 16 U. S. Stat. at Large, 202.

To construe the instrument it is proper to ascertain and determine the intention of the parties, and this is arrived at by considering the character in which the party undertakes, the nature and subject of the undertaking, and the terms employed in the instrument.

The Auburn City Bank vs. Leonard, 40 Barb., 119.
Stanton vs. Camp, 4 Barb., 274.

It is no matter that Brooks did dot insert the word "as" before the "Admr." in executing the instruments, for it is no objection that the office is not correctly stated in the description attached to the signature.

Brockway vs. Allen, 17 Wend., 40.

The entire objection is met by the decision in *Newell vs. West*, 13 Blatch., 114. In which it was held that an assignment from a widow was valid, though made by her as administratrix of her husband, and not as executrix, when she had been appointed executrix. That it was not necessary that the daughter, who with the widow were the sole beneficiaries under the will, should have joined in the assignment or assented to it. And that the company that purchased from the widow became the owners in equity of the patent; and that its rights are the same as though that had been done which ought to have been done, and no one except a *bona fide* purchaser, can assert the contrary in a court of equity.

Newell vs. West, 13 Blatch., 114, 118.

What we have said applies to both assignments. The first assignment has no seal attached, and in such a case, that the intent must govern, is even stronger.

Townsend vs. Corning, 23 Wend., 435.
Pinkney vs. Hagadorn, 1 Duer, 89.

The objection may again be answered by the facts that the patent has been reissued to the complainant, and that the defendant objects from want of information and belief and offers no evidence against the legal presumption of ownership.

For when a reissue counts upon a prior assignment of the original patent to the complainant, this makes, with the act of the Commissioner granting the reissue, a *prima facie* case that it was valid to reissue to the complainant; and if there is no proof in the case tending to overcome this, the Court must therefore presume that the reissue was properly granted to the complainant.

Middletown Tool Co. vs. Judd, 3 Fisher, 141.

In this case the complainant has clearly established its rights under this patent, by the use of the patented article for a number of years, by an action in which the patent was sustained, and in which every defense might have been set up, and by obtaining a reissue of the original patent.

Cook vs. Earnest, 2 O. G., 93–89.
Perry vs. Parker, 1 W. & M., 280.

A reissue of a patent to an assignee raises a presumption of title in such assignee.

Washburn & Moen M. Co. vs. Haish, 4 F. R., 900.

Fourth Point. *We submit that the complainant was entitled to the decree prayed for, and that the decree dismissing the bill should be reversed.*

FREDERIC H. BETTS,
Counsel for Appellant.

UNITED STATES PATENT OFFICE.

SILAS N. BROOKS, OF SHELBURNE FALLS, MASSACHUSETTS, ADMINISTRATOR OF LINUS YALE, JR., DECEASED.

Improvement in Post-office Letter Boxes.

Specification forming part of Letters Patent No. 119,212, dated September 19, 1871.

To all whom it may concern:

Be it known that Linus Yale, Jr., deceased, late of Shelburne Falls, in the County of Franklin and State of Massachusetts, during his lifetime invented a new and useful improvement in doors for post-office boxes; and I, Silas N. Brooks, administrator of the estate of the said Linus Yale, Jr., deceased, do hereby declare that the following is a full, clear and exact description thereof, sufficient to enable others skilled in the arts to understand, make, and use the same, reference being had to the accompanying drawings forming part of this specification in which

Figure 1 is an elevation taken from the front or delivery side of a series of boxes; Fig. 2 is a vertical section through the same; and Fig. 3 is a front elevation of a single box frame with the door open.

This invention relates to an improvement in the construction of the fronts of post-office boxes, and consists in making said fronts, including the doors and box frames, of metal, and in securing the frames to the wooden pigeon holes by rivets, connecting the frames with each other at top, bottom and sides.

The body of these boxes is to be made of wood, in the usual manner, namely, a series of pigeon-holes; but the front of the box and the door frame are made of iron or other suitable metal. Each door-frame or box-front is so made that it aids in covering the edge of the wooden partition or pigeon-holes, and is connected with the other frames above, below, and on each side of it, in such manner that the frames make a continuous frontage, no part of which can be removed (from the outside) without pulling down other parts and breaking the wood-work, so that a surreptitious removal of the front of any box in order to get possession of its contents is practically impossible. Each frame, made as before stated of metal, has all around it a flange, *a a*, which protects the outside of the wood-work. The sides of the frame *b b* enter and fit closely against the wood forming the pigeon-holes, and may be continuous or notched out at intervals; and each frame has at-

4963.

UNITED STATES PATENT OFFICE.

SILAS N. BROOKS, OF BERNARDSTOWN, MASSACHUSETTS, ADMINISTRATOR OF LINUS YALE, JR., DECEASED.

Improvement in Post Office Letter Boxes.

Specification forming part of Letters Patent No. 119,212, dated September 19, 1871; Reissue No. 4963, dated July 9, 1872.

To all whom it may concern:

Be it known that Linus Yale, Jr., deceased, late of Shelburne Falls, in the County of Franklyn and State of Massachusetts, during his lifetime invented a new and useful improvement in doors for post-office boxes; and I, Silas N. Brooks, administrator of the estate of the said Linus Yale, Jr., deceased, do hereby declare the following to be a full, clear and exact description thereof, sufficient to enable others skilled in the arts to understand, make and use the same, reference being had to the accompanying drawing forming part of this specification, in which—

Figure 1 is an elevation taken from the front or delivery side of a series of boxes; Fig. 2 is a vertical section through the same, and Fig. 3 is a front elevation of a single box frame with the door open.

This invention relates to an improvement in the fronts of post-office boxes, and consists in making said fronts, including the doors and box frame of metal, said box frames being constructed so as to overlap and cover, in whole or in part, the front edges of the wooden pigeon-holes to which they are affixed.

The body of the boxes is to be made of wood in the usual manner—viz., a series of pigeon-holes—but the front of the box and the door frame are made of iron or other suitable metal. Each door frame or box front is so made that it aids in covering the edge of the wooden partition or pigeon-holes, and is connected with the other frames above, below and on each side of it in such manner that the frames will make a continuous frontage, no part of which can be removed from the outside without pulling down other parts. Each frame, made as before stated of metal, has all around it a flange *a a*, which protects the outside or edges of the wood work. The sides of the frames *b b* enter and fit closely against the wood, forming the pigeon holes, and may be

UNITED STATES PATENT OFFICE.

SILAS N. BROOKS, OF CHICAGO, ILLINOIS, ADMINISTRATOR OF LINUS YALE, JR., DECEASED, ASSIGNOR TO THE YALE LOCK MANUFACTURING COMPANY, OF STAMFORD, CONNECTICUT.

Improvement in Post-office Boxes.

Specification forming part of Letters Patent No. 119,212, dated September 19, 1871; Reissue No. 4963, dated July 9, 1872; Reissue No. 7625, dated April 24, 1877; Application filed April 19, 1875.

To all whom it may concern:

Be it known that Linus Yale, Jr., deceased, late of Shelburne Falls, in the County of Franklin and State of Massachusetts, during his lifetime invented a new and useful improvement in post-office boxes; and I, Silas N. Brooks, administrator of the estate of the said Linus Yale, Jr., deceased, do hereby declare the following to be a full, clear and exact description thereof, sufficient to enable others skilled in the arts to understand, construct and use the same, reference being had to the accompanying drawing, forming a part of this specification, in which

Figure 1 is an elevation taken from the front or delivery side of a series of boxes. [redacted] the outer ends of such boxes respectively, of metal doors and frames suitably hinged together, the frames so arranged as to overlap and cover, in whole or in part, the front edges of the boxes to which they are to be secured. My invention also consists in providing suitable means for securing such frames to the boxes.

Lock-boxes have heretofore been made in which the doors were attached directly to the front ends of the boxes, as shown in the patent of Jacob H. Beidler, No. 57,464, granted August 28, 1866; but the hinging of the doors directly to the sides of the boxes is troublesome and insecure, because it leaves the edges of the boxes exposed to convenient attack.

The body of the boxes may be made of wood, in the usual manner, but the door and door-frame, which compose the front of the boxes respectively, are made of iron or other suitable metal. Each door-frame is so made that it aids in covering the edges of the wooden partitions forming the walls of the boxes, and is connected

UNITED STATES PATENT OFFICE.

THE YALE LOCK MANUFACTURING COMPANY, OF STAMFORD, CONNECTICUT, ASSIGNEE OF S. N. BROOKS, ADMINISTRATOR OF L. YALE, JR. (DECEASED).

Improvement in Post-office Boxes.

Specifications forming part of Letters Patent No. 119,212, dated September 19, 1871; Reissue No. 4963, dated July 9, 1872; Reissue No. 7625, dated April 24, 1877; Reissue No. 8783, dated July 1, 1879; application filed May 23, 1879.

To all whom it may concern:

Be it known that Linus Yale, Jr. (deceased), late of Shelburne Falls, in the County of Franklin, and State of Massachusetts, during his lifetime invented a new and useful Improvement in Post-office Boxes; and the Yale Lock Manufacturing Company, assignee of the entire right and title to said invention, does, by its president, hereby declare that the following is a full, clear and exact description thereof, sufficient to enable others skilled in the arts to understand, make and use the same, reference being had to the accompanying drawings, forming part of this specification, in which—

Figure 1 is an elevation taken from the front or delivery side of a series of boxes. Fig. 2 is a vertical section through the same, and Fig. 3 is a front elevation of a single box-frame with the door open.

This invention consists in an improvement in the construction of Post Office boxes; and its chief feature is the combination of a tier of pigeon-holes made of wood with a continuous frontage of metal, such frontage consisting of doors and their frames, which latter cover the ends of the boards which form the pigeon-holes. A series of wooden pigeon-holes open at the rear and covered at the front or on the outside by a permanent glass front is very old, and such a series was used for Post Office boxes and in hotels as a receptacle for keys, cards, letters, &c. There has also been in use a series of wooden pigeon-holes, each provided at one end with a door, as described in the patent granted to Jacob H. Beidler, May 28, 1866; but in this patent the door is described as hinged to the wood, and the construction is, consequently, insecure, as an ordinary pocket knife or small chisel will, even in inexperienced hands, suffice to cut away the wood or pry off the door, so that the boxes may be entered.

Pigeon-holes made of iron or other metal are difficult to construct and very

[illegible] I claim [illegible] of the said Linus Yale, [illegible], is:

1. The combination of several box frames with each other and with pigeon-holes, as described, by means of rivets passing through the frames, and the wood-work entering between the said frames, the combination being substantially as described.

2. The above, in combination with the flanges making part of the frames and protecting and inclosing the exterior of the wood-work, substantially as set forth.

SILAS N. BROOKS,
Administrator of the Estate of Linus Yale, Jr., deceased.

Witnesses:
G. M. PLYMPTON,
H. L. WATTENBERG.

[illegible] frames with each other and with pigeon-holes, as described, by means of rivets passing through the frames and the wood-work, entering between the said frames, the combination being substantially as described.

[redacted]

SILAS N. BROOKS,
Administrator of the Estate of Linus Yale, Jr.

Witnesses:
H. L. WATTENBERG,
G. M. PLYMPTON.

with other frames above, below and on each side of it, in such a manner that the flanges will make a continuous metallic frontage, no part of which can be removed from the outside without pulling down other parts. Each frame, made as before stated of metal, has all around it a flange *a a*, which protects the outside or edges of the wood-work. The sides of the frames *b b* enter and fit closely against the wood forming the pigeon-holes, and may be continuous or notched out at intervals, and each frame has attached to it one leaf of two or more hinges, *c c*. The door may be of any desirable metal, solid where the lock *d* is attached, and having an opening, *e*, below, in which a plate of glass is secured. I prefer to locate rods *f f* behind the plate, to prevent the introduction of a hand, if the glass be broken. The door is so constructed that when shut it enters within the frame, so that it cannot be lifted from its hinges. When the frames are all in place each frame is riveted through the wood-work to its four neighbors (see *h h*, Fig. 2), and in this way a continuous metal frontage is formed. The door for each frame has a small spring-bolt, *i*, and a lock, *d*, attached to it. An arm, *k*, of wire or other material, is attached to the turning mechanism of the lock *d*, through a slot, *l*, made in the casing, in which the tumblers, &c., are placed. This arm is bent at its free end, and engages with a pin, *m*, which is attached to bolt *i*. The casing of this bolt is slotted horizontally at *n* and vertically at *o*, in which slots the pin *m* moves to push out and draw in the bolt, and to lock it when pushed or thrown out.

This device forms, in the hands of the postmaster, a perfect safeguard against all entrance to the box by means of the key, as is more particularly set forth in letters patent granted to me on the 24th day of October 1871, and numbered 120,177.

What I claim as the invention of the said Linus Yale, Jr., deceased, is:

1. As a new article of manufacture, a metallic front for post-office lock-boxes, consisting of a frame and door suitably hinged together, and provided with a lock for controlling said door from the outside, the said front being adapted to fit and close one end of a box, the other end of which is open for the insertion of mail matter, substantially as specified.

2. The combination, substantially as specified, of several door frames and doors with post-office boxes, whereby a continuous metallic frontage is formed.

3. The combination, substantially as specified, of two or more metallic frames and doors with post-office boxes, said

costly; but such pigeon-holes each provided with an ordinary metal door, would be sufficiently secure. Such a degree of security, at comparatively a low cost, is attained by covering the front of a series of wooden pigeon-holes with a continuous metallic frontage—that is, a frontage, which presents a continuous surface of metal, or, in other words, a surface which covers the ends of the wooden pigeon-holes in such manner, that those portions of the wood to which the metallic frames are attached cannot be attacked when the doors making part of the frontage are closed. In constructing Yale's invention the body of the boxes or the series of pigeon-holes is to be made of wood in any usual manner, and the fronts thereof—viz., the doors and their frames—are to be made of iron or other suitable metal.

Each door-frame is of such size that it aids in covering the ends of the wooden partitions that form the pigeon-holes to which it is applied, and these frames (see Fig. 1) are of such size and shape that where a series of them are combined with a series of pigeon-holes, they cover the whole of the ends of the wood.

Each door-frame is a plate of metal, *a*, *a*, which, when in place, overlaps a part of the ends of the wood-work surrounding the pigeon-hole, the outside of the frame inclosing a greater area than the orifice of the pigeon-hole, and each frame has an ear *b*, *b*, which enters the pigeon-hole; but this ear may be either continuous or notched out at intervals. The door is of iron or other metal, solid at top, and having an opening, *e*, below, in which a plate of glass is secured, and is hinged to the frame as at *c*, *c*. It is preferable to locate rods *f*, *f*, behind the plate, so as to prevent the introduction of a hand if the glass be broken, and so to form and hinge the door that when shut it enters within the frame, so that it cannot be lifted from its hinges when shut.

When the frames are all in place, each frame is riveted or bolted to the wood-work to fasten it thereto, and is also riveted or bolted to its four neighbors to secure the frames to each other. (See *h*, *h*, Fig. 2.) Thus each frame is secured to the wood-work, so that it cannot be removed till the rivet or the wood-work is cut away or broken.

When all the frames are in place a continuous metallic frontage, protecting the wood-work, is presented upon the outside of the series of boxes—that is, the side where the public can approach the boxes.

Each door has a lock attached to it, the bolt of which is actuated through the intervention of an arm, *k*, in the manner and for the purposes set forth in a patent

frames having flanges which protect and inclose the front edges of the pigeon holes.

4. The combination, substantially as specified, of two or more metallic frames and doors with post-office boxes, the frames connected together by means of rivets passing through them and through the wood-work of the pigeon-holes.

5. The combination, substantially as specified, of a metallic door, provided with a glass panel and a metallic pigeon-hole frame to which the door is hinged.

6. The combination of a post-office box, open at the rear end, and a metallic frame secured to the front end of it, substantially as specified.

SILAS N. BROOKS,
Administrator of the estate of
Linus Yale, Jr., deceased.

Witnesses:
C. C. KOHLSBAT,
J. W. EDDY.

granted for the invention of Linus Yale, Jr., on the 24th day of October, 1871, No. 120,177.

An iron door in an iron frame is not claimed as of Yale's invention, as such doors have been used in safe-vaults and for furnaces.

What is claimed as the invention of said Linus Yale, Jr. (deceased), is—

1. The combination, substantially as specified, of a series of metallic door-frames and doors with a series of wooden pigeon-holes, whereby a series of Post-office boxes with a continuous metallic frontage is formed.

2. The combination, substantially as described, of a series of wooden pigeon-holes with a series of metallic door-frames and doors, and with rivets or bolts which attach the frames to the wood-work, whereby a continuous metallic frontage secured to the wood-work of pigeon-holes is obtained.

3. The combination, substantially as described, of a series of wooden pigeon-holes with a series of metallic door-frames and doors, and with rivets or bolts which attach the frames both to the wood-work and to each other, the combination being substantially such as described.

4. The combination of a metallic door with a glass panel, and with a frame to which the door is hinged, said frame being so constructed as to cover a part of the ends of the wooden partitions forming pigeon-holes and being applied thereto, the combination being substantially as specified.

5. The combination of a post-office box or pigeon-hole, open at the rear, with a metallic frame and door to protect the front end of it.

In testimony that the said company claims the foregoing, it hereunto affixes its hand and seal this 14th day of May, A. D. 1879.

THE YALE LOCK MFG. CO., [L. S.]
By HENRY R. TOWNE,
President.

Witnesses.
SCHUYLER MERRITT,
FRANKLIN UNDERHILL.

125-447

125-447

Office Supreme Court U. S.
FEB 2 1888
JAMES H. McKENNEY,
CLERK

In the Supreme Court of the United States.

OCTOBER TERM, 1887.

THE YALE LOCK MANUFACTURING Company, appellant, *vs.* THOMAS L. JAMES. } No. 162.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW YORK.

BRIEF FOR DEFENDANT.

In the Supreme Court of the United States.

OCTOBER TERM, 1887.

THE YALE LOCK MANUFACTURING Company, appellant. *vs.* THOMAS L. JAMES. } No. 162.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW YORK.

BRIEF FOR DEFENDANT.

On the 17th day of February, 1881, the Yale Lock Manufacturing Company, as the alleged owner of patents for post-office boxes, filed in the circuit court of the United States for the southern district of New York a bill in equity for infringement of the alleged patent against Thomas L. James, who was postmaster of the United States for the city of New York, to enjoin him from using post-office boxes erected by the United States in the post-office in that city, with prayer for an account. The answer sets up the usual defenses, with the additional one that the boxes upon which the charge of infringement is based were a part of the structure and equipment of the

New York post-office, and that the defendant's only connection with them lay in his being postmaster, and therefore was not liable in this suit. Issue was joined, testimony taken, and the case came on to be heard in regular order in the circuit court. After a full hearing the court decided there was no infringement, and, on the 19th day of August, 1884, dismissed the bill. (Rec., p. 326.)

SUMMARY OF THE EVIDENCE.

In its prima facie case the complainant gave in evidence the patent in suit, being Reissue No. 8783, dated July 1, 1870 (Rec., p. 98). It also put in evidence a disclaimer of the fourth and fifth claims, dated the 18th of November, 1880) Rec., p. 101). Also a stipulation which described the boxes used in the New York post-office, and sets forth the connection the defendant had with their use;—

> That all the box-rents during the period of their use were paid to the defendant as postmaster, and by him accounted for to the United States as a part of the postal revenue; that the boxes were not placed in said post-office by defendant, but were placed there and paid for by the United States. (Rec., pp. 96 and 97).

Schuyler Merritt was called by the complainant as an expert, to put a construction upon the patent and to prove infringement (Rec., pp. 16 to 23). Complainant also put in evidence the opinion of Judge Shipman in the case of the present complainant against the Scoville Manufacturing Company (Rec., p. 103). Also an order for a prelimi-

nary injunction in the complainant's suit against the National Lock Manufacturing Company (Rec., p. 110). Also the interlocutory decree in the complainant's suit against John L. Chambers, doing business as the Johnson Rotary Lock Company (Rec., p. 110). Neither the evidence, nor any other proceedings, or part or parts of the records in those cases, were offered in evidence.

THE DEFENSE.

A structure identical with that shown in the complainant's patent was draughted in May, 1867, for use in the post-office at Boston, under the direction of General Burt, then postmaster there. (See testimony of Frederick Moore, Rec., p. 160.) The boxes were completed and erected during the summer of 1868, before September. (See testimony of Joshua E. Hadlock, Rec., pp. 157–159; Thomas L. Harmon, p. 159; Moore, pp. 160–163; John Lewis, pp. 164 to 174; George H. Pousland, p. 175; McNutt, pp. 176 and 177; Bruce, pp. 177 to 179; and Burt's letters, Nos. 1, 2, and 3, to the Postmaster-General, pp. 317, 318, and 319.) These boxes were constructed by direction of William L. Burt, then postmaster at Boston, under a claim of invention. He originated the idea in May, 1867, shortly after he became postmaster. (Rec., p. 160.) See also letter of Burt to Chambers (Rec., p. 264).

In 1865 there were put in the vaults of the Safe Deposit Company of New York metal pigeon-holes, in series, having metal doors and door-frames, so arranged

as to present a continuous metal front, and to cover completely the partition of the pigeon-holes. (See depositions of Foster, Rec., p. 200; William H. Butler, Rec., p. 205, and William C. Hicks, Rec., pp. 241 to 244.)

In 1867 the letter-boxes at Westerly, R. I., were supplied with metal doors, carrying locks, and hinged directly to the wood-work of the partitions. This structure was also put in several other places. (See depositions of Pendleton, Rec., pp. 193–195; Clark, Rec., pp. 195–198.) Lock-boxes having wooden pigeon-holes, wood doors, and door-frames of a different sort of wood from that of the pigeon-holes, so arranged as to cover entirely the wood of the partitions, were in common use in 1865, and many years prior thereto. (See deposition of Young, Rec., p. 214; Lewis, Rec., p. 172, and Mullett, Rec., p. 190.)

In 1863 street washer-boxes, having wood sides arranged like a pigeon-hole, and a metal cover and metal cover frame, arranged so as to cover entirely the end of the wood sides, were in common use. (See street washer-box stipulation, Rec., pp. 265, 266.) A street washer-box cover and frame considered together are identical in all material respects with one of Yale's doors and its frame considered together. (See Hicks's deposition, Rec., p. 244.)

At the Fort Wayne post-office wood front lock-boxes as small and economical of space, and for practical purposes as secure as those faced with metal, have been in continuous use since 1861. (*Vide* stipulation, Rec., p. 316.) They were also used prior to 1868 in Cincinnati and Chicago. (See testimony of Mullett, Rec., p. 184.)

Bearing upon the question of the validity of the complainant's patent, in its quality of reissue, defendant put

in evidence the original patent, dated September 19, 1871. (Rec., pp. 268–270); first reissue, dated July 9, 1872 (Rec., pp. 270–272), with file wrapper (Rec., pp. 273–283.) The second reissue, dated April 24, 1877 (Rec., pp. 284–287), with file wrapper and contents (Rec., pp. 287–305); also file wrapper and contents to defendants, July 1, 1879; reissue No. 8,783 (Rec., pp. 305–314).

The boxes in the New York post-office were put there under a contract by the Johnson Rotary Lock Company. They were in the office when it was first occupied, August 28, 1875. (See Gaylor's deposition, Rec., p. 232; and Chambers' deposition, Rec., p. 219; *vide* also order of A. B. Mullett, supervising architect, to J. L. Chambers, March 25, 1874, and order of Wm. A. Potter, supervising architect, to same, dated April 24, 1875, Rec., p. 256; also orders and directions concerning the same, Rec., p. 257 to 260.)

In 1871 there was a competition, in which the Johnson Company and the Yale Company participated, to determine who should have the contract to furnish the Government buildings with post-office boxes. On December 18th of that year, Postmaster-General Creswell decided in favor of the Johnson box. (See Chambers' deposition, Rec., pp. 219, 220–223 to 229.)

In 1871 the Yale Lock Company, and Brooks, administrator of Yale, began an infringement suit in the circuit court of the United States for the southern district of New York against the Johnson Company. This suit was discontinued without proceeding further than joinder of issue. In 1872 they brought a second suit against the

Johnson Company, but never filed replication to the answer, nor took any steps therein subsequent to January 15, 1873. (*Vide* testimony of Thomas W. Shields, Rec., pp. 233, 234; also Chambers, Rec., p. 236.)

The Johnson boxes were put on market in practical competition with the Yale boxes in 1869 and 1870. This is proven by the deposition of Chambers (Rec., p. 219 to 232); also letter of Towne, president of the Yale Company, to W. L. Burt, dated July 2, 1870 (Rec., p. 116).

Prior to the 23d of May, 1879 (the date of the application for the reissue for the patent in suit Rec., p. 311), about 100,000 of the Johnson boxes had been put upon the market, and the principal post-offices of the United States, such as New York, Pittsburgh, Boston, Philadelphia, Baltimore, New Orleans, Galveston, and San Francisco, had been supplied with them. (See Chambers's deposition, Rec., p. 219.)

William C. Hicks was defendant's expert. His opinions upon questions of identity of the inventions claimed in the reissue and the original patent, concerning the various structures put in evidence by the defendant, and concerning infringement, are printed in the record, pages 237 to 255.

REBUTTAL.

In rebuttal there was put in evidence the file-wrapper and contents of the original patent, showing that Yale made application therefor September 30, 1868 (Rec., p. 124). This file-wrapper and contents refer to an interfer-

ence declared in the Patent Office between Burt and Yale (Rec., p. 131). Explanatory of this, defendant put in evidence a certified copy of the file-wrapper and contents in the matter of that interference (Rec., pp. 137 and 138), wherefrom it appears that the issue between Burt and Yale was as to "fastenings for post-office letter-boxes"; that priority was awarded to Yale because his application was the earlier on record, and because neither party put in any evidence, in pursuance of which the interference was dissolved on the 24th of February, 1870 (Rec., p. 138). It also appeared from the testimony of Mr. Towne, who was president of the Yale Company (Rec., pp. 81 to 95), that Yale's administrator conceded priority to Burt, and the Yale Company paid Burt royalty. Complainant's rebuttal expert was Henry B. Renwick. He expressed the opinion that the reissue No. 8783 describes precisely the same structure and the same invention as is described in the original patent. (Rec., p. 41.)

On cross-examination it appears, in arriving at this conclusion, Mr. Renwick considered only the three figures or drawings, and the specific description thereof, in the original patent (Rec., p. 61 to 67); that he gave no consideration whatever to the claims of the original patent, and ignored the following descriptive matter in the original patent:

> This invention relates to an improvement in the construction of the front of post-office boxes, and consists of making said fronts, including the doors and box-frames, of metal, and securing the frames to the wooden pigeon-holes by rivets, connecting with each other, top, bottom, and sides.

Mr. Renwick was the draughtsman for the reissue patent in suit (Rec., p. 41, bottom). He was also the draughtsman for the original application for the original patent (Rec., p. 62 and 63, bottom). He is also of the opinion that the method of fastening in the New York post-office is substantially different from Yale's (Rec., p. 44). This is more clearly and strongly expressed in the testimony of Merritt, complainant's expert (Rec., p. 18), and the defendant's witness, Hicks, who testifies they do not infringe the original patent of Yale, in which the fastening is an essential element (Rec., p. 240, 241). Complainant's witnesses, Towne and Keating, were called to show the extent to which the Yale box had been used (Rec., pp. 67 to 74, 74 to 77, 86 to 95). Towne was president and Keating traveling salesman of the Yale Company. Their testimony shows that as early as 1870 the Yale Company met with active competition, principally from the Johnson Company, Sargeant & Greenleaf, the American Steam Safe Company, and Bramble. The description given by them of the various structures manufactured by these several companies shows that they were not infringements of the original patents, but would be infringements of the reissue in suit if its first two claims were broadly construed. Tyler is the only witness called by complainant who pretends to have any knowledge of the matters pertaining to the Yale patent prior to the application therefor on September 30, 1868. The incoherence, and inherent want of credibility of his testimony is a sufficient answer to it.

BRIEF OF ARGUMENT.

I

Yale was not the inventor. The bill alleges that he was. The answer denies it. The patent offered in evidence, if identity of structure were proven, would establish but a prima facie case. The patent is not evidence of the supposed invention having been made at any time earlier than its own date or the date of the application. This proposition is thus stated by Justice Clifford in the case of *Wing* v. *Richardson* (2 *Clifford*, 450), as follows:

> Letters-patent are granted by the Government under authority of law, and, when regularly issued, and in the usual form, they are, if introduced into a case, prima facie evidence that the person named as such was the original and first inventor of what he has described therein as his improvement. Such presumption, however, in the absence of the application for the patent, extends back only to the date of the letters-patent, and in no case does it extend further back than the time of the filing of the original application. Whenever a party desires to show that his invention was made prior to the date of his application for the patent, he must prove the fact by other sufficient evidence, because no such presumption arises from the letters or the application, or both combined.

In this case the original patent is dated September 19, 1871. The application therefor was made September 30, 1868. It is proved beyond all question that the identical structure shown in the patent was put up in the Boston post-office as early as July 30, 1868, by General William L. Burt, then postmaster there. (See depositions of Hadlock, Harman, Moore, Lewis, Pousland, McNutt,

and Bruce.) The date is proven by the entry in the books of McNutt, who subcontracted from Hadlock and Bruce the making of the wooden pigeon holes, his book-entry showing the delivery of the wood work May 18, 1868 (Rec., p. 177); by Lewis' testimony that "they went right to work at attaching the metal doors and pigeon-holes as soon as the nests of the wooden pigeon-holes were delivered" (Q. 22, Rec., p. 166), and by Burt's letters to the First Assistant Postmaster-General, dated June 1, 1868, and June 9, 1868 (Rec., pp. 318, 319); and by testimony of Pousland that he paid rent for one of the new boxes on September 12, 1868 (Rec., p. 175). This was done by Burt under a claim of invention. (See Lewis' deposition cross-q. 82, Rec., p. 171), and Burt's letter to Chambers, dated July 1, 1868, wherein he speaks of "my own improvement upon the door and frame," and states that an arrangement based thereon, which he proposed to Chambers, would give him (Burt) a large profit and Chambers a reasonable one (Rec. p. 264). The burden is therefore on the complainants to show clearly by satisfactory evidence that Yale made his supposed invention prior to July 1, 1868.

If it be claimed that Burt abandoned his own plan and substituted therefor a scheme devised by Yale, the evidence examined in detail will not warrant such a conclusion. Burt became postmaster in April, 1867. Almost immediately he conceived the idea of metal-front lock-boxes. In May of that year he had a drawing made, which shows metal doors and door-frames, the frames being continuous covering the partitions of the several pigeon-holes.

In general accord with this drawing, but with some alterations, a pattern was made, from which a casting in brass was taken. See testimony of Moore, questions 2 and 8 (Rec. pp. 160 and 161). This cast frame, painted, and having doors, properly fitted with glass, hung thereto, was delivered to Burt within one or two months after the drawing was made (Moore, Q. 7, Rec. p. 161). The frame was then attached to a section of wood pigeon-holes and sent to the Yale Company to be provided with locks. (Moore, cross-interrogatories 19 to 26, Rec. pp. 162 and 163. See also complainant's witness, Tyler, questions 108 and 109, Rec. p. 34; questions 173 to 176, Rec. p. 39; also J. B. Yale's letter, dated December 6, 1867, to W. L. Burt, Rec. p. 115.) From this point down to the actual putting up of the boxes, the evidence as to what either Burt or Yale did is not clear. Both of them are dead, and we have not the benefit of their testimony. On the 8th of February, 1868 (Rec. p. 317), a letter is found from Burt to the First Assistant Postmaster-General, showing that the proposed changes in the letter boxes had not been abandoned. On the 13th of March, 1868, he apparently wrote Yale that he proposed to apply for a patent for his improvements, for on March 17, 1868, Yale wrote him as follows: (Rec. p. 267.)

83 BEEKMAN ST., NEW YORK,
March 17, '68.

Mr. W. L. BURT, P. M.,
Boston, Mass.

DEAR SIR: Yours of the 13th inst. has been forwarded to me and I would reply: I presume the sup't will send you another door made by hand,

though they cost at least three prices, and we would avoid it if possible. We have done a great deal of experimenting on this thing already, as you must be aware, and that brings me to the subject of your second paragraph. I do not anticipate trouble about the Bramble pat., and only wish to say *I claim only the manner of fastening in the frame to the woodwork*, which I have no doubt you will allow is mine. I had already consulted my patent solicitor, H. B. Renwick, of this city, *as to the feasibility of patenting the manner of fastening in simply*, and am informed it can undoubtedly be patented. The matter of a metal door, with glass, and locked, I, of course, have no claim to. You sent me such a door to put locks on, so you are ahead of me at least on that point. I do not write this to interfere at all with your application, *but must insist on my claim to the manner of fastening to the shelves and partitions.* Hoping nothing of the above may be misconstrued,

I am, very respectfully,

LINUS YALE, Jr.

It is fair to infer from this letter that by that time the plan of one frame for a number of pigeon-holes had been abandoned for the plan of a separate frame for each pigeon-hole. But who suggested the change? Was it Yale, or was it Burt? The inference that it was not Yale is strong, inasmuch as he says he had done much experimenting, and states the result thereof in a claim to the *manner of fastening in simply.* That Burt made it is corroborated by Lewis, who was one of the postal-clerks, and who states that the sectional frame made to cover a number of boxes was shown him by Burt, who condemned it on account of its "frailability" (*vide* Testimony of Lewis, Questions 43

to 50, Rec., p. 168). A short time afterwards Burt showed him a single front (frame and door), and directed him to have the wood pigeon-holes made thereby (Questions 8 to 10, Rec., p. 164 and 165; Questions 39, Rec., p. 167, and Question 63, Rec., p. 169). This single front went into the hands of Hadlock and Bruce, contractors for the wood-work (Bruce, Question 13, Rec., p. 178), and thence into the hands of the subcontractor, McNutt (McNutt, Questions 11, 13, Rec., p. 177). The wood-work was delivered May 18, 1868 (McNutt, Questions 7 to 10, Rec., p. 177). The metal doors and frames actually put up in the Boston office were undoubtedly made on contract by the Yale Company. Deliveries of them appear to have been made at or about the time the wood-work was delivered, for Lewis says they went right to work "at attaching the frames and doors as soon as the wood-work was delivered" (Question 22, Rec., p. 166), and that after the single front given in by Burt to have the wood-work made by, the next time he saw such fronts was when a lot of them were brought in and put on a bench where the wood-work was going on. (Question 61, Rec., p. 169).

Such is the evidence. Did Yale make the separate frames? If he did, it is nothing to the purpose, for such frames, as independent structures, are identical in mechanical principle and operation with the frames of the street-washer boxes, which, in combination with metal doors and wood boxes, are stipulated to have been publicly known and used years prior to 1868 (Rec., pp. 265 and 266). Further, the separate frames are not the combination of the patent. They were capable of being used so as to make a continuous metal front, but they were fit

to be used equally as well with partitions an inch, or six inches, or a foot thick. It is the use of them in a particular way that is important, and Burt was the first to use them in that way. Did Yale suggest the method of fastening? Suppose he did, that method of fastening is not characteristic of, or essential to, a practical metallic front for post-office boxes. This is proved by the fact that 100,000 metal front boxes, in which different fastenings are employed, all of which are older than any man living, are in use now, and have been for years in use in the principal post-offices of the United States (*vide* Chambers's deposition, Rec., p. 219). The patent is for a combination. In such combinations the valuable idea is the continuous metallic frontage. Burt originated that idea, and on the evidence in this case he was the first to give it body and form by actually making the combination. The most that can be claimed for Yale is that he suggested some details of construction. If it be conceded that such suggestions were made, and that they were improvements, at most they would only make Yale out to be a joint inventor with Burt, and that would be fatal to the Yale patent. (*Gottfried* vs. *Brewing Company*, 17 *O. G.*, 675.)

If it be urged that Burt, as well as Yale, applied for a patent, and that an interference was declared between them, on which the Commissioner of Patents awarded priority to Yale, it may be replied that in an action by the assignee of Yale against the United States, or Mr. James, an officer of the United States, such decision should have no weight. The interference was declared in 1869, more than a year after the facts which determine who in reality was the inventor took place. The subject

matter involved was "fastenings for post-office boxes" (Rec., p. 137). The decision in Yale's favor was made only because the record showed him to be the first applicant (Rec., pp. 137 and 138). The decision is dated February 24, 1870. Now it appears that in July of that year the Yale Company was under an arrangement with Burt to pay him a royalty of 10 cents a box. (See letter to Burt, dated July 2, 1870, Rec., p. 116; also letter July 26, 1870, Rec., p. 117; see also notes of concession of priority to Burt in communication of W. B. Taylor, examiner, Rec., p. 150; see also letter of John B. Yale to Burt, Rec, p. 184; testimony of Towne, cross-examination, Questions 33 and 34, Rec., p. 85.) As to payment of royalty by Yale to Burt, see testimony of Towne (Rec., p. 89). These communications would seem sufficiently to explain why Burt defaulted in the interference proceedings.

II.

The patent in suit (Reissue No. 8,783) can be sustained, if at all, only by limiting its scope to the matters covered by the claims of the original patent.

(A). The third claim is so limited in terms. If any broader scope be given to the first two claims, it will be necessary to hold that that patent is invalid on the ground that it is not for the same invention as the original patent.

Note the changes that have been made. In the original invention it is stated to consist—

> In an improvement in the construction of the fronts of post-office boxes, and consists in making said fronts, including the doors and box frames, of

metal, and in securing the frames to the wooden pigeon-holes by rivets connecting the frames with each other at top, bottom, and sides.

The reissue says:

> The invention consists of an improvement in the construction of post-office boxes, and its chief feature is the combination of a tier of pigeon holes made of wood, with a *continuous frontage of metal*—such frontage consisting of doors and their frames, which latter cover the ends of the boards which form the pigeon holes.

The reissue adds (what nowhere appears in the original) a description of the functions of such continuous frontage of metal as follows:

> Such a degree of security at comparatively low cost is attained by covering the front of a series of pigeon holes with metallic frontages—that is a frontage which presents a continuous surface of metal, or in other words, a surface which covers the ends of the wooden pigeon holes in such a manner that those portions of the wood to which the metallic frames are attached cannot be attacked when the doors making part of the frontage are closed.

In the originals the frames are described only in specific terms as follows:

> But the front of the box, and the door-frame, are made of iron or other suitable metal, each door-frame or box front is so made that it aids in covering the edge of the wooden partition, or pigeon holes, and is connected with the other frames above, below and on each side of it in such manner that the frames make a continuous frontage, no part of which can be removed from the outside without pulling down other parts,

and breaking the wood-work, so that a surreptitious removal of the front of any box, in order to get possession of its contents is practically impossible. Each frame made, as before stated, of metal, has all around it a flange (aa) which protects the outside of the wood-work. The sides of the frame (bb) enter and fit closely against the wood forming of the pigeon holes, and may be continuous or notched out at intervals; and each frame has attached to it one leaf of two or more hinges, (cc), * * * When *the frames are all in place, each frame is riveted through the wood-work to its four neighbors, (See hh Fig. 2) and thus a continuous iron frontage is formed.* (R., pp. 269, 270.)

In the reissue the description of the frames and adjustment and fastening are generalized. The italics in the following quotation indicate the expansion, additions, and changes in this respect:

This invention consists in an improvement in the construction of post-office boxes, and its chief feature is the combination of *a tier of pigeon holes, made of wood with a continuous frontage of metal, such frontage consisting of doors and their frames, which latter cover the ends of the boards which form the pigeon holes.* * * * Pigeon holes made of iron or other metal are difficult to construct, and very costly, but such pigeon holes, each provided with an ordinary metal door, would be sufficiently secure. Such a degree of security at a comparatively low cost is attained by covering the front of a series of wooden pigeon holes with a continuous metallic frontage—that is, a frontage which presents a continuous surface of metal, or, in other words, a surface which covers the ends of the wooden pigeon holes in such manner that those portions of the wood to which the me-

tallic frames are attached cannot be attacked when the doors making part of the frontage are closed.

In constructing Yale's invention, the body of the boxes, or the series of pigeon-holes, is to be made of wood in any usual manner, and the *fronts thereof,—viz. the doors and their frames, are to be made of iron or other suitable metal. Each door frame is of such size that it aids in covering the ends of the wooden partitions that form the pigeon-holes, to which it is applied, and these frames (see Fig. 1) are of such size and shape that where a series of them are combined with a series of pigeon-holes, they cover the whole of the ends of the wood. Each door frame is a plate of metal (aa), which, when in place, overlaps a part of the ends of the wood-work* surrounding the pigeon-hole, the outside of the frame enclosing a greater area than the orifice of the pigeon-hole, and each, *the ear (bb) which enters the pigeon-hole, but this ear* may be either continuous or notched out at intervals. * * * When the frames are all in place, each frame is riveted or bolted to the wood-work to fasten it thereto, and is also riveted or bolted to its four neighbors, to secure the frames to each other (see *hh*, Fig. 2). Thus each frame is secured to the woodwork so that it cannot be removed till the rivet or the wood-work is cut away or broken. *When all the frames are in place, a continuous metallic frontage, protecting the wood-work is presented upon the outside of the series of boxes,—that is, the side where the public can approach the boxes.* (R., pp. 99, 100.)

As to the drawings in the original, the frame is shown (Fig. 2) as lining the walls of the pigeon-holes near the front. In the reissue, by the cunning omission of a single line, this is not shown. (See Hicks's deposition, answer to Question 4, Rec., p. 239.) In both claims of the orig-

inal patent the peculiar adaptation of the forms to the wood-work (*i. e.*, entering and fitting closely against the walls of the pigeon-holes) and their attachment to one another (*i. e.*, by rivets connecting them through the walls of the pigeon-holes) are characteristic and essential elements. No other adaptation or attachment is hinted at, much less described. The description is positive, not preferential. In neither claim are the metal doors part of the combination described. In the reissue, on the other hand (in order to obtain a "continuous metallic frontage" in the sense of "metallic surface"), the doors are elements of all the claims. In neither the first nor the second claim, according to the meaning at the first blush they appear to have, is the attachment of the frames one to another, nor the peculiar adaptation of the frames to the wood-work, material. Indeed, these claims are so drawn as apparently to cover frames that do not enter the pigeon-holes at all, and it is the opinion of the complainant's expert, Mr. H. B. Renwick, that they are not confined to separate frames for each pigeon-hole, but would be infringed "by using one frame for more than one pigeon-hole." (See Renwick's deposition, answer to Question 11, Rec., p. 47.) A good illustration of the skillful and dangerous art which has been brought to the aid of the patentee in this matter, is to be found in the treatment of the following sentence in the original patent:

> *The sides of the frame (bb) enter and fit closely against the wood forming the pigeon-holes, and may be continuous or notched at intervals.*

The drawing of that patent, the context of the quoted sentence, and the claims, show clearly what is meant

throughout, the frame (*i. e.*, the metal entering and lining the walls of the pigeon-hole) is differentiated from the flanges (*i. e.*, the metal covering the ends of the wood partition). In the combination of the first claim there are no flanges. It is obvious, therefore, that when it is said the sides of the frames may be "notched out at intervals," it is meant that they may have the undulatory shape shown in the model and in *figure* 2 of the drawing. It is not meant that they may be notched out clear through the front so that the walls of the pigeon-holes in front would not be continuously lined with metal, for that would be to destroy the "frame" as an entity, and to substitute in its place four pieces of metal which would be separate in the combination of the first claim, and connected only by the flange in the combination of the second claim. It would also be in the combination of both claims (flanges *aa* being described only as covering or protecting the outside of the wood-work) to leave openings at top, bottom, and sides of wood, as the metal entering the pigeon-holes isthick;—that is, both the claims would be impracticable. Now, in the reissue, the sentence quoted above is omitted, and in its place we have the following:

> *Each door frame is a plate of metal* (*aa*) which, when in place, overlaps a part of the ends of the woodwork surrounding the pigeon-hole, the outside of the frame enclosing a greater *area than the orifice of the pigeon-hole, and each frame has an ear* (*bb*) *which enters the pigeon-hole, but this ear may be either continuous, or notched out at intervals.*

And further, the drawings are changed so that they no longer show the walls of the pigeon-holes lined in front

by the metal of the frames. The context is changed. The claims are changed. By these changes the "frames" of the original patent have dropped out of sight, or, at least, have shrunk into "an ear" which may or may not line the walls of the pigeon-holes; and the "flanges" of the original patent are described as "part of the frames"—mere incidental appendages are changed into the frames of the reissue. In brief, while the original patent shows an exterior surface of metal, no stress is laid upon it. Such surface is not the continuous iron frontage of that patent. This will be clear when we consider the following words:

> "When the frames are all in place, each frame is riveted through the wood-work to its four neighbors (see hh, Fig. 2) and *thus* a continuous iron frontage is formed;"

and the fact that by the reasonable construction of this patent, taken as a whole, the frames are considered to be separate from the flanges, and by the further fact that the second claim would be infringed were wooden doors used, and the first claim would be infringed were wooden doors used and the ends of the partition left uncovered by metal;—constructions in which the exterior surface would be practically a continuous surface of wood.

On the other hand, the reissue is so drawn as to present an exterior surface of metal over wood pigeon-holes as the gist of the invention. The law on this subject has been fully explained and illustrated in adjudged cases. The act of 1870 (*Rev. Stat.*, § 4916) allowed a reissue for a defective claim only when the defect existed in the patentee's "claiming as his own invention or discovery

more than he had a right to claim as new," and provided that the reissue must be "for the same invention," and that "no new matter shall be introduced into the specification, nor, in the case of a machine patent, shall the model or drawing be amended, except by each other."

In *Powder Company* vs. *Powder Works* (98 *U. S.*, 137) a reissue for a compound was held void on the ground that it was not for the same invention as was the original patent, which was for a process. The court says:

> The invention of the one did not involve the invention of the other. The two inventions might have been made by different persons, and at different times.

So in this case, "the continuous metallic frontage" of the reissue (being an exterior surface of metal doors and frames set up against the wood-work) is a distinct and separate thing from a continuous iron frontage of the original (consisting of joined metal frames, lining wood pigeon-holes, and existing without any exterior surface of metal). They both may have been inventions, but one does not involve the other. "They might have been made by different persons and at different times." Yale personally never made any claim that he was the inventor of both. (See also what is said as to a claim for the process in the reissue of the patent originally granted for a machine in *James* vs. *Campbell*, 104 *U. S.*, 356, 374, and 377; *Wing* vs. *Anthony*, 5 *M. T.*, 240.)

The original patent considered in *Russell* vs. *Dodge*, (93 *U. S.*, 463) was for a process of drying certain skins by means of a compound in which heated fat liquor was an ingredient. The reissue was held void because it de-

scribed the heating of the fat merely preferentially, and claimed the use thereof whether hot or cold. The court says (page 463):

> The specification could not be substantially changed either by the addition of new matter, or the omission of important particulars, so as to enlarge the scope of the invention as originally claimed. * * * The evident object of the patentee in seeking a reissue was not to correct any defects in specification or claim, but to change both, and thus obtain in fact a patent for a different invention. This result the law, as we have seen, does not permit.

In *Heald* vs. *Rice* (104 *U. S.*, 753), after an exhaustive analysis of the original and reissued patent, the court says:

> It appears, then, from the mere reading of the two specifications, that the invention described in the first is for the return-flue boiler, while that described in the second, abandoning the claim for the boiler itself, is for a particular mode of using it, with straw as a fuel, by means of an attachment to the furnace-door for that purpose. *It might well be that Rice was entitled to patents for both, separately, or to one for both inventions, But it is too plain for argument that they are perfectly distinct. A patent, consequently, originally issued for one can not lawfully be surrendered as the basis for a re-issue for the other.* They are as essentially diverse as a patent for a process, and one for a compound, as in the case of the *Powder Co.* vs. *Powder Works*, (98 *U. S.*, 126) where the re-issued patent was avoided, although the original application claimed the invention both of the process and the compound. The case comes directly within the principle held in *James vs. Campbell, supra*, that

> a patent for a machine can not be reissued for the purpose of claiming the process of operating that class of machines; because, if the claim for the process is anything more than for the use of the particular machine patented, it is for a different invention.

The original patent showed in the drawing the attachments to the furnace door—that is, showed the combination claimed in the re-issue. When the re-issue involved in this case was before Judge Shipman in the suit against the Scoville Manufacturing Company (18 *Blatch.*, 251) he sustained it by an argument in which the state of the art and the actual invention of Yale shown thereby played a great part. We submit, with deference, that this mode of dealing with the question, if correctly understood, is inconsistent with what was held in the case of *Heald* vs. *Rice*, *supra*, where the Supreme Court says:

> The principles for determining the validity of reissued patents have been discussed and formulated so repeatedly and so recently in this court that it is necessary at present only to refer to *James vs. Campbell* (104 *U. S.*, 356); *Miller vs. Brass Co.* (104 *U. S.*, 350); *Burr vs. Duryee* (1 *Wall.* 531); and *Powder Co. vs. Powder Works* (98 *U. S.*, 126).
>
> In the present case the question of the identity of the invention in the original and re-issued patents is to be determined from their face by mere comparison, notwithstanding what was said in *Battin vs. Taggert* (17 *How.* 74) and consistently with *Bischoff vs. Wethered* (9 *Wall.* 812), according to the rule laid down in *Seymour vs. Osborne* (11 *Wall.* 516) and *Powder Co. vs. Powder Works*, *supra*. That is, if it appears from the face of the instruments that extrinsic evidence is not needed to explain terms of

> art, or to apply the descriptions to the subject-matter, so that the court is able from mere comparison to say what is the invention described in each, and to affirm from such mere comparison that the inventions are not the same, but different, then the question of identity is one of pure construction, and not of evidence, and consequently is matter of law for the court, without any auxiliary matter of fact to be passed upon by a jury, if the action be at law.

In *Powder Company* vs. *Powder Works* (*supra*), the reissue for the compound, of a patent for a process, was avoided, in spite of the fact that the original application described and claimed both a compound and process. In *Railroad Company* vs. *Mellon* (104 *U. S.*, 118) it was held that the scope of letters patent is limited by the invention covered by the claim, and though the claim may be illustrated, it can not be enlarged by the language used in other parts of the specification.

> He [the patentee] can not go beyond what he has claimed, and insist that his patent covers something not claimed, merely because it is to be found in the descriptive part of the specification.

Applying this, the claims of Yale's original patent are the principal things to be considered in determining what the invention attempted to be secured in that patent was. Mr. Renwick is greatly in error in ignoring them.

(B). Even giving the first two claims of the reissue the broad construction put upon them by the complainant they are void, for the reason that the error, if any, in the original did not arise by inadvertence, accident, or mistake, which is the condition upon which allowance of a reissue is imposed by the statute. (*Rev. Stat.*, § 4916.)

Until recently it has been supposed that the decision of the Commissioner of Patents proved, by the granting of a reissue, and that there was error, and that such error arose by inadvertence, accident, or mistake, was conclusive. Recent decisions of the Supreme Court, however, have settled the law otherwise. It is now established that if by the record it appears that there could not have been any inadvertence, accident, or mistake in respect of the matters sought to be covered by a reissue, then, either the reissue must be construed so as to include such matters, or must be held to be invalid. Thus, in *James* vs. *Campbell* (104 *U. S.*, 371) the Supreme Court says:

> But where it is apparent on the face of the patent, or by contemporary records, that no such inadvertence, accident, or mistake, as claimed in a reissue of it, could have occurred, an expansion of the claim can not be allowed or sustained.

In *Leggett* vs. *Avery* (101 *U. S.*, 259) the court held that the omission of a claim in a patent that has been applied for and rejected, and rejection acquiesced in without appeal, can not be regarded in any just sense as an error arising by inadvertence, accident, or mistake.

In *Manufacturing Company* vs. *Corbin* (103 *U. S.*, 789) it was held that the claim of a reissue must be construed so as to include matter applied for and objected to by the examiner, amendment having been made by the applicant in accordance with the objection. In this case it was claimed that Yale was the first inventor of a practicable metallic front, and the original patent was erroneous in that it restricted the patentee to frames entering and lining the pigeon-holes, and to the particular method of fastening,

viz, rivets passing through the walls of the pigeon-holes and connecting the frames as well to one another as to the wood-work; and that the first two claims of the reissue have merely reinstated the invention in its actual scope.

This is distinctly denied; but if admitted for the sake of argument, the question remains, Does the record show that these errors did not arise by inadvertence, accident, or mistake? The record shows that pending proceedings in the Patent Office, these very points were brought to the attention of the applicant. Objections based upon them were made by the examiner. Such objections were acquiesced in without appeal, and amendments were made accordingly. Yale died a day or two before Christmas, 1868. His application for this patent, consisting of petition, specification, and oath (these are the only papers on the file executed by him personally,—Rec., p. 121 to 124), was made September 30, 1868.

The specification of the application is the same as that of the original patents, except that it is still more specific in that it contains no general statement prior to the detailed description of what the invention consists of (Rec., p. 123), and is as follows:

> I do claim as my invention
>
> First. The combination of several box frames with each other and with the partitions between them [*pigeon holes*], as described, by the means of rivets passing through the frames and the partitions intervening between the said frames [*wood-work*], the combination being substantially as described.*
>
> Second. I claim the above combination, in com-

* The words and phrases inclosed in brackets erased in original September 6, 1869.

bination with the flanges making part of the frames, and protecting and enclosing the exterior of the partitions, [*wood-work*], substantially as described.

Third. I claim a pin lock in combination with a spring bolt [*upon a door*] by means of an adjustable connection [*contrivance*], substantially such as described, so that the bolt may be moved when the lock is actuated by the key, and [*or*] may be disconnected from the lock.*

As in the patent, the second claim of the application embraces the combination of the first claim, with an additional element. The first claim of the patents as granted is word for word the same, except that after the word "wood-work" these words appear: "*entering between the said frames.*"

These words "entering between the said frames" are of great import; they obviously restrict the claim to a structure in which the frames line the walls of the pigeon-holes. How did they come to be added? The application does not appear to have been taken up for examination during Yale's life-time. But, on January 20, 1869, the first and second claims were rejected, the examiner writing as follows:

The application above referred to has been examined. The box frames covered by the first and second claims are not regarded as presenting any patentable difference from the ordinary metallic door and window frames in common use, as shown, for example, in the rejected and withdrawn cases of W. Wright, for a metallic window frame and sash, filed August 1, 1846; of Russell Judson, filed September 3, 1851, for a cast-iron sash and frame, and of W. B. Tread-

* Erased 13th of October, 1869.

well filed August 29, 1855, for a shutter and door, (drawings in architecture). The first and second claims must therefore be refused. (R., p. 124.)

Thereupon the applicant's attorney wrote the following letter:

WASHINGTON, *September* 6, 1869.

To the COMMISSIONER OF PATENTS,

SIR: Amend the post-office box specification of Linus Yale Jr., filed October 1, 1868, by inserting in the first clause of claim after "wood-work" the words "*intervening between the said frames*". A re-examination is asked on the amended claim.

Respectfully,

LINUS YALE, Jr.,
By his attorney, WILLIAM D. BALDWIN.

None of the references cited in the official letter show the combination claimed by Yale. Judson shows simply a single cast-iron frame and door, without woodwork, and shows neither "pigeon holes," "box frames," or "rivets" as claimed by Yale. The same remarks apply to the other references.

Respectfully,

WILLIAM D. BALDWIN,
Att'y.

(R., p. 124 & 125.)

It thus appears the decision of the Examiner was acquiesed in without appeal. The claim was amended, and the patent issued accordingly. If we now turn to the file of the first re-issue, No. 4963, (R. p. 275) the ap-

plication for which was made May 7, 1872, the specification of the application contains the following new claim:

Erased May 10, 1872—R. C. D. New matter.

[*Third. The combination of several metallic box frames with each other and with pigeon holes, said box frames being secured to said pigeon holes independently of each other by means of screws, or other similar fastening, as described.*]

which claim was supported by the following descriptive matter:

This invention relates to an improvement of the fronts of post-office boxes, and consists in making said fronts, including the door and box frames, of metal, said box frames being constructed so as to overlap and cover, in whole or in part, the front edges of the wooden pigeon holes to which they are affixed [*and in securing said frames to said pigeon holes by rivets or screws.*] The body of the boxes is to be made of wood in the usual manner, viz: a series of pigeon holes, but the front of the box and the door frame are made of iron or other suitable metal.

Each door frame or box front is so made that it aids in covering the edge of the wooden partition or pigeon holes and is[*may be*] connected with the other frames above, below, and on each side of it in such a manner that the frames will make a continuous frontage no part of which can be removed from the outside without pulling down other parts [*or the several frames may be secured or otherwise fastened directly to the wooden pigeon holes, each one independent of the other if desired*]. * * *

When the frames are all in place each frame [*may be*]is riveted through the woodwork to its four neighbors (see *hh* Fig. 2) and in this way form a continuous metal frontage [*or each separate frame may be screwed*

or otherwise fastened to the woodwork independent of its neighboring frames.] (R. p. 274–275.)*

This new claim and the italicized parts of the description were objected to by the examiner May 8, 1872, as new matter. (Rec., p. 276.) On the next day the applicant gave notice of appeal. (Rec., p. 277.) This appeal was never prosecuted, though an appeal on another point was taken. (Rec., p. 278 to 282.) But on May 10, 1872, the application was amended by striking out such new claim, and by striking out or changing the new descriptive matter objected to by the examiner. (Rec., p. 277.) The reissue, No. 4963, was made accordingly. It is thus shown by the record, conclusively, that, so far as the matters of fastening by rivets through the woodwork, and the peculiar adaptation of the forms to the woodwork are concerned, it is impossible that there was any inadvertence, accident, or mistake.

The facts set forth above, and other facts appearing in the files, also point directly to the conclusion that the actual invention was correctly claimed in the original patent. Linus Yale himself never made, or swore to, any other claims. In framing his application he had the aid of Henry B. Renwick, an expert and competent solicitor of patents. The patent did not issue for nearly three years after application was made. During that time, as the files show, many attorneys appeared in behalf of the applicant. There was much controversy and correspondence with the Patent Office. There were many amendments.

* The matter enclosed in brackets May 10, '72, as new.

The specifications were completely rewritten, yet there is no pretense anywhere in the file that the claims did not fully cover the actual invention of Yale. It is a presumption of law that Yale knew what his own invention was. See Revised Statutes, section 4888, which provides that the applicant for a patent "shall particularly point out and distinctly claim the part, improvement, or combination which he claims as his invention or discovery."

(C.) But, in any aspect of the case, the reissue must be held void by reason of the laches of the patentee, if the claims have the broad meaning contended for. *Miller* v. *Brass Company* (104 *U. S. R.*, 350) is a leading case upon this subject. The law as there stated is—

> Re-issues for the enlargement of claims should be the exception and not the rule. And when, if a claim is too narrow,—that is, if it does not contain all that the patentee is entitled to,—the defect is apparent on the face of the patent, and can be discovered as soon as that document is taken out of its envelope and opened, there can be no valid excuse for delay in asking to have it corrected. Every independent inventor, every mechanic, every citizen, is affected by such delay, and by the issue of a new patent with a broader and more comprehensive claim. The granting of a re-issue for such a purpose, after an unreasonable delay, is clearly an abuse of the power to grant re-issues, and may justly be declared illegal and void. It will not do for the patentee to wait until other inventors have produced new forms of improvement, and then, with the new light thus acquired, under pretense of inadvertence and mistake, apply for such an enlargement of his claim as to make it embrace these new forms. Such a process of expansion carried on indefinitely, without regard to lapse of time,

would operate most unjustly against the public and is totally unauthorized by the law. In such a case, even he who has rights, and sleeps upon them, justly loses them. * * *

But in reference to re-issues made for the purpose of enlarging the scope of the patent, the rule of laches should be strictly applied; *and no one should be relieved who has slept upon his rights, and has thus led the public to rely upon the implied disclaimer involved in the terms of the original patent.* And when this is a matter apparent on the face of the instrument, upon a mere comparison of the original patent with the re-issue, it is competent for the courts to decide whether the delay was unreasonable, and whether the re-issue was, therefore, contrary to law, and void.

The Supreme Court in the same case says that:

The claim of a specific device or combination, and an omission to claim other devices or combinations apparent on the face of the patent are, in law, a dedication to the public of that which is not claimed. It is a declaration that that which is not claimed is either not the patentee's invention, or, if his, he dedicates it the public. (*Id.*, 352.)

As we understand it, a controlling test of unreasonable delay is this: Did the public, before the patentee applied for a correction, by taking advantage of the matter presumptively disclaimed or dedicated, show that they relied thereon? If so, a re-issue covering such matter is void. With the law as thus declared in view, consider the facts proved by the evidence in this case. According to Towne, the president of the Yale Company, the regular manufacture of the Yale structure began in 1869. He states

that in 1868, 1869, and 1870, 8,893 boxes were sold. (Answer to question 4, Rec., p. 75.)

As early as 1870 the Yale Company met with active competition, chiefly from the American Steam Safe Company, Sargeant and Greenleaf, and the Johnson Rotary Lock Company (Towne's testimony, Q. 6, Rec., p. 76). The Steam Safe Company boxes had a continuous exterior surface or frontage of metal, fastened against wood pigeon-holes, such frontage consisting of doors and frames; the frames not being separate for each pigeon-hole, but made in sections, each having three openings; the attachment being screws turned into the end of the wood partitions from the front, and the heads of the screws being protected by the doors when closed. (Keating's testimony, answers to questions 36 and 41, Rec., p. 72.)

The Sargeant and Greenleaf boxes were made in the same way. (*Id.*, question 41.)

The Johnson Rotary Lock Company made the structures in the New York post-office which are alleged to be infringements in this case. It appears by the letter of Towne, president of the Yale Company, to Postmaster Burt, of Boston, dated July 5, 1870, that prior to that date the Johnson boxes had driven the Yale boxes out of the post-office at Burlington, and that they were in use at Ogdensburg. (Rec., p. 265.)

It is plain, therefore, that the persons interested in the Yale structure had their attention called very early to the importance of having as broad a patent as possible—the patent issued under date of September 19, 1871. At about that time there was a competition pending before a committee appointed by the Postmaster-General to exam-

ine and report upon the kind and character of post-office boxes to be used in post-offices in buildings owned by the Government. The report of the committee, dated November 27, 1871, is in evidence (Rec., pp. 257–260). Of the competitors, it appears that the American Steam Lock Company, Sargeant & Greenleaf, the Johnson Rotary Lock Company, the Yale Lock Company, W. W. Robbins, Staples & Son, A. E. Tilton, and James E. Bell submitted samples of metallic front boxes (Rec., pp. 258–262, 263). By the report of the committee, and by the indorsement thereon of the Postmaster-General, under date of December 18, 1871, the preference was given to the front and lock of the Johnson Rotary Lock Company (Rec., p. 263).

In 1869, and for several years thereafter, Keating was the traveling salesman of the Yale Company. Prior to May, 1872 (in which month the first reissue was applied for), he had seen in use the Sargeant & Greenleaf boxes, the Johnson boxes, and boxes which he says were known as the Bramble boxes. The description of the Sargeant & Greenleaf boxes has been given above. The Bramble boxes had a continuous front of metal, the frames being fastened (according to his impression) by flanges entering the wood-work. (Rec., pp. 72 and 73.)

The Johnson boxes were put up in different ways. In those at Elizabeth, N. J., seen by him in the summer of 1870, the frames did not abut, nor were they connected together by rivets, but they had flanges entering the pigeon-holes, through which they were screwed to the wood-work (Questions 19 and 52, Rec., pp. 70 and 73). In those at Burlington, Vt., seen by him in 1870, the frames did not abut, but had flanges entering the pigeon-

holes, through which they were riveted one to another, as well as to the wood-work (Questions 47 and 51, Rec., p. 73). In those at Rutland, seen by him in 1870, 1871, or 1872, the frames abutted, flanges entered the pigeon-holes, but each frame was separately attached by screws. (Answers to cross-questions 47, 48, 49, and 50, Rec., p. 73.)

It was not until May 7, 1872, that a re-issue was applied for. Considering the facts that have been set forth, was not the delay too long? Even before the original patent was granted, the necessity of broad claims had been forced upon the attention of the managers of the Yale Company. If the claim as issued were too narrow, the defect was apparent upon the face of the instrument, and, under the strenuous competition then prevailing, the application for an enlargement of the claim should, we submit, have been made forthwith. Is this not certainly so, the fact being that the Yale Company had been worsted by the Johnson Company in the competition for Government patronage?

The application for the re-issue of 1872 was so drawn as evidently to be intended to cover the structures of the Yale Company's competitors. But the examiner objected to the new matter in the description and claims. No appeal was prosecuted. The objections were acquiesced in. The new matter was stricken out and a re-issue obtained that was no better for the monopoly grasped at by the Yale Company than the original patent. According to the decision in *Manufacturing Company* vs. *Corbin* (103 *U. S. R.*, 789), the claims of this re-issue are restricted by the proceedings in the Patent Office.

On August 20, 1875, the structures now in the New

York post-office, and which are alleged to be infringements in this case, went into use. (See Gaylor's testimony, Rec., p. 232.)

They have been used ever since. The first lot of them was ordered of the Johnson Company March 25, 1874. (See letter of Mullett, Supervising Architect, Rec., p. 256.)

By 1877 the Johnson Company had disposed of about 100,000 of its boxes. They were put up in the large post-offices, such as New York, Pittsburgh, Boston, Philadelphia, Baltimore, New Orleans, Galveston, and San Francisco. (Chambers' deposition, Questions 5, 9, and 10, Rec., p. 219.)

In 1877 a second re-issue of the Yale patent was obtained, but, proving unsatisfactory, it was surrendered, and the third re-issue applied for May 23, 1879. This application resulted in the issuance of the patent in suit. Thus, nearly eight years elapsed before the alleged too-restricted claims of the original patent were expanded to the mind of the Yale Company. In the mean time tens of thousands of boxes, like those now alleged to infringe, had gone into use, and hundreds of thousands of dollars had been invested, in the well-founded belief that Yale's invention was no broader than his first claim stated it to be.

(D.) There is a further objection to complainant's construction of the re-issue. There was no room for Yale to invent anything more than was originally claimed by him. The state of the art was such that there could have been no invention in making a metal front for post-office boxes, irrespective of the method of fastening and irrespective of the peculiar shape and adaptation of the frames to the wood-work.

In the post-office at Fort Wayne, Ind., lock boxes for letters have been in use from 1861 to the present time, which are as small and economical of space, and practically as secure as any that have been faced with metal. The partitions are of one kind of wood, (poplar) and the doors, hinged thereto are of another (black walnut). The doors, hinged without the intervention of frames, to the horizontal partitions, make a continuous surface of black walnut along the horizonal tier of boxes; that is, no part of the vertical partition is exposed to view when the doors are closed.

So satisfactory have these boxes been that no metal fronts have ever been introduced at that office. (See Fort Wayne Stipulation, Rec., p. 316.) At New York, Boston, Cincinnati, Chicago, and many other places, wood-front lock boxes, illustrated by the model defendants exhibit, ("wood-front boxes,") were used. The fronts, consisting of doors and frames, were of a different sort of wood from the pigeon-holes, and when the doors were closed made a continuous surface that covered from sight all of the wood partitions. The frames were not separate for each pigeon-hole.

Those at Boston, which were not superseded by the metal front invented by Burt, were seen by the witness Lewis in 1845, when he became a clerk in the office there, and were used continuously down to 1874 or 1875, when the office was changed (Lewis, questions 23–31, Rec., pp. 166, 167). The frames were fastened directly to the pigeon-holes. (Questions 91 and 92, Rec., p. 172.)

Those at New York were seen by witness Young in 1865, when he entered the office, and continued to be used

until the change of the office in 1875. The frames were fastened to posts. It is uncertain whether they were also fastened to the partitions.

In those at Cincinnati, put up by the witness Mullett in 1864, the frames made an independent partition against which the cases of pigeon-holes were placed. (Mullett, questions 11, 19, and 51, Rec., pp. 183, 184, and 189.)

At Westerly, R. I., lock boxes, consisting of black walnut pigeon-holes and iron doors, have been in use since September 1, 1867. (Pendleton, questions 2 and 6, Rec., p. 193; Clark, questions 8 and 9, Rec., p. 197.) The doors are directly hinged to the vertical partitions. The same structure has been used at Washington, D. C., Ashaway, Taunton, and many other places. (Clark, deposition, question 13, Rec., p. 197.)

In the vaults of the New York Safe Deposit Company nests of small safes, having wrought-iron partitions and cast-iron doors and frames, have been in use since June 23, 1865. (See depositions of Foster, Rec., p. 200; of Butler, Rec., p. 205; of Hicks, question 14, Rec., p. 244.)

The model in evidence, made by Butler about 1867, shows a nest of four safes, which, so far as the frame and partitions are concerned, is made in the same manner as those of the Safe Deposit Company. The doors are different in some details. (Butler, questions 17 and 18, Rec., p. 207.) The nests in use were of varying sizes, and had varying numbers of safes therein, some having thirty, and some five or six only. (Butler, question 10, Rec., p. 206.) Each nest had but one frame, irrespective of the number of safes. The frames completely covered the ends of the partitions. The nests

were arranged in vertical and horizontal tiers, with sides abutting, and were riveted one to another through the frames. The street washer box stipulation (Rec., p. 265) shows rectangular boxes of wood, open at one end, and the other closed by a door and frame of metal; the frame, fastened on the inside to the wood, covers the ends of the wood sides, and also enters and partially lines the wood sides. Its exterior edges make a rectangle. It is stipulated that this structure was publicly and commonly known and used in the United States for several years prior to 1868.

In brief—

Post-office lock-boxes arranged in vertical and horizontal tiers were well known.

A frontage of lock-boxes so arranged, differing in material from the partitions, and consisting of doors and door-frames, was well known.

The idea of combining metal with wood in post-office boxes so arranged had been reduced to practice. A metal door and frame, as the covering and protection of a wood box, was well known.

A practicable metallic frontage for pigeon-holes, arranged in vertical and horizontal tiers, the practicability of which did not depend in any manner upon the nature of the material composing the partitions of the pigeon-holes, was well known.

Under the circumstances proved there could not have been any invention in taking the frame of one nest of the Safe Deposit Company's boxes and applying it in the same manner to wood pigeon-holes in a post-office. This

could have been done without change. The defendant's expert, Hicks, says (question 13, Rec., p. 243):

> The fact that the pigeon-holes proper in the Safe Deposit boxes are made of iron, does not, in my view, prevent them from containing the inventions described in the first and second claims of the reissue, under the supposed construction of said claims; for they are pigeon-holes having continuous metallic fronts and doors, and there would be nothing to prevent the substitution of wood for the iron pigeon-holes nor would the combination between the two, the pigeon holes and the frames, be substantially different if wood were substituted, because there is no special adaptation between the iron front and the iron pigeon holes, which would not be applicable as well to the use of wooden pigeon-holes.

It is easy to see, also, that there are many other ways in which post-office boxes having a continuous frontage of metal could easily have been made out of the known structures, without invention, by ordinary skill and intelligence, if the idea of doing this had been suggested. (See Hicks's deposition, Rec., p. 237 to 255). As has been shown, Yale was certainly not the originator of the idea.

Are we not warranted in stating as our conclusions that, in view of the state of the art, the structure shown in the patent exhibits no invention, unless it may be in the particular combinations originally claimed by Yale, and never expanded by him personally, and distinctly limited by him by his letter of March 17, 1868, to the manner of fastening them together through the partitions? (Rec., p. 267.)

(E.) If the method of fastening, and the peculiar shape and adaptation of the frames are not essential elements of

the Yale structure, it is distinctly anticipated by the safe deposit boxes. (See Hicks's testimony, Questions 13 and 14, Rec., pp. 242–244.)

III.

The patent in suit so limited is not infringed by the boxes in the New York post-office.

Neither the letter-boxes nor the newspaper-boxes have either the frames lining the pigeon-holes or the fastenings of the Yale patent. The fastenings of the letter-boxes are regarded by both of the complainant's experts, Merritt and Renwick, as substantially different from the Yale fastenings; Renwick stating this in terms, and Merritt stating that those boxes do not infringe the third claim of the re-issued patent in suit, in which the method of fastening is obviously an essential element. The fastenings of the newspaper-boxes by screws, passing through lugs or ears that entered the pigeon-holes, are precisely what was attempted to be incorporated into the re-issue of 1872, the attempt resulting in a failure, and the failure being acquiesced in without appeal from the action of the examiner.

IV.

No action can be maintained against the defendant in this case.

By the stipulation (Rec., p. 96) the facts are established that the connection of the defendant with the boxes was only in his official capacity as postmaster of the United States for the city of New York; that the boxes were an appurtenant of the post-office, and were erected therein

by and were the property of the United States; "that all of the box-rents were paid to the defendant as postmaster, and by him accounted for to the United States as part of the postal revenue"; that the use made of the boxes was the placing therein of postal matter by clerks employed by the defendant as postmaster, who were paid by the United States under the authority of the Postmaster-General.

In the case of *James* v. *Campbell* (104 *U. S.*, 359), which was a suit against the same defendant for the use in the same office in the same way of a patent for "an improved post-office stamp," Justice Bradley, by whom the opinion of the court was delivered, declares:

> The course adopted in the present case of instituting an action against a public officer, who acts only for and in behalf of the Government, is open to serious objections. We doubt very much whether such an action can be sustained. It is substantially a suit against the United States itself, which can not be maintained under the guise of a suit against its officers and agents except in the manner provided by law. We have heretofore expressed our views on this subject in *Carr* v. *The United States* (98 *U. S.*, 433), where a judgment in ejectment against a Government agent was held to be no estoppel against the Government itself.

The defendant in this case did nothing that was not distinctly incumbent upon him by law. If any wrong was done the complainant, it was the law of the United States that commanded it; it was the United States that did it. The defendant could not lawfully have removed the boxes, nor could he have forbidden their use by the clerks employed by the United States.

In the case of *Carr* v. *The United States* (98 *U. S.*, 437), cited above, in discussing the right of citizens to bring suit against an officer of the United States, acting directly and only as such, and the effect of a judgment in such a case as an estoppel, the following language is used:

> We consider it to be a fundamental principle that the Government can not be sued, except by its own consent; and certainly no State can pass a law which would have any validity for making the Government suable in its courts. It is conceded in *The Siren* (7 *Wall.*, 152) and in *The Davis* (10 *id.*, 15) that, without an act of Congress, no direct proceeding can be instituted against the Government, or its property; and in the latter case, it is justly observed that "the possession of the Government can only exist through its officers, using that phrase in the sense of any person charged on behalf of the Government with the control of the property, coupled with actual possession."
>
> If a proceeding would lie against the officers as individuals in the case of a marine hospital, it might be instituted with equal facility and right in reference to a post-office or a custom-house, a prison or a fortification.
>
> In some cases (perhaps it was so in the present case) it might not be apparent until after suit brought that the possession attempted to be assailed was that of the Government; but when this is made apparent by the pleadings, or the proofs, the jurisdiction of the court ought to cease. Otherwise the Government could always be compelled to come into court and litigate with private parties in defense of its property.

The proceedings in this case are in equity. The prayers are to enjoin the defendant from the use of the boxes, and

to require him to account for the rents. If a restraining injunction were granted and disobeyed, a court could not, with any propriety, punish this officer for contempt in disobeying the order, which would stop the distribution of the mails. If, on final decree, a mandatory injunction should be issued by the court to remove the boxes, such a decree would be a direct assault on the property of the Government. In either event, the use of the property in the lawful possession of the Government would be attacked. This suit is as distinctly against the United States as though the Government had been made a defendant therein. The prayer for an accounting can not equitably be granted, for by section 3855, Revised Statutes, it is provided:

> And in order to ascertain the amount of the postal receipts of each office, the Postmaster-General shall require postmasters to state under oath, at such times and for such periods as he may deem necessary in each case, the amount of stamps canceled, *the amount of box-rents received;* the amount of unpaid postages collected, and the amount of postage on printed and other mailable matter.

The box-rents are thus made a part of the Government revenue. A failure to account for, or conversion of box-rents when received by the postmaster to any use not specially provided by law, is made highly penal. He is required to pay it to the Government. When thus compelled by law to pay the box-rents to the Government, it would be unjust and highly inequitable to compel him by any process to pay it to the complainant. It would be equally unjust to require him by law to pay it twice.

No court of equity could with propriety make such a decree.

In the case of *Cary* vs. *Curtis* (3 *How.*, 246), which was an action to recover from a collector of customs money alleged to have been wrongfully collected by him, but which, by the act of 1839, he was required to pay into the Treasury, the equitable common law for money received for the use of the plaintiff had been, prior to the passage of the act of 1839, the form recognized by law by which the plaintiff might recover from the collector the money wrongfully collected. After the collector was required by law to pay the money into the Treasury, the right to sustain that equitable action was decided to have ceased to exist, and the plaintiff was left without remedy, except as provided by an act of Congress. The principle involved in this case, it is respectfully submitted, disposes of the case now under consideration in favor of the defendant.

The further question yet remains, suggested in the dissenting opinion of Justice Miller in *James* vs. *Campbell* (104 *U. S.*, 384), as thus stated by him:

> As regards the right to a patent for an invention like this, which can be of use to no one but the Government of the United States, and which is, therefore, in effect, a contract by the United States that it will not use that which is essential to some of its most important operations without paying to the patentee whatever he may demand for the use of his invention, I have great doubt—a doubt which it would have been necessary to solve in this case if the majority of the court had believed the patent sued on valid.

With reference to this *quære*, the post-office boxes can be used as such only by the Government. That boxes are an indespensable public necessity, so that they should be used, can not well be denied; that they can be wrongfully used by the Government can not be entertained, for the sovereign can do no wrong. Therefore the Government may rightfully use the boxes. This rightful use must either come from the consent of the patentee or without his consent. If the patentee's consent is essential to the rightful use, the implication is unavoidable he has a right to refuse that consent absolutely, and thus deprive the Government of the use of that which is indispensable, which can not be maintained. Hence the only alternative remains that the Government may rightfully use a patent, which can be useful only to the Government, without the consent of the patentee. If the Government may rightfully use a patent without the consent of the patentee the officer who so uses it is guilty of no wrong, and if the complainant can recover any compensation it must be from the Government, against which no action can be maintained without its consent.

The additional view may be worthy of consideration, whether any patent can be granted for such an invention as can be of use to no one but the Government. If the Government can rightfully command the very lives of its citizens without the obligation of pecuniary compensation, may it not also command any inventive powers the citizen may have, and leave the inventor to depend only on its generous bounty for his recompense without right to legal redress.